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Family responsibilities discrimination, HR work-family discourse and organizational mediation of US civil rights law

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Family responsibilities discrimination, HR work-family discourse and organizational mediation of US civil rights law

Robin Stryker, Heidi Reynolds-Stenson and Krista Frederico

Abstract

Because the US addresses work-family concerns mostly through voluntary employer-provided benefits combined with anti-discrimination legislation, organizational mediation of law shapes the content and impact of employers' response to employees' work-family issues. Centrality of organizational mediation means centrality of HR professional discourse. Given skyrocketing lawsuits claiming family responsibilities discrimination (FRD), we examine FRD-related discourse, 1980-2012, in the two highest circulation HR journals, situating analysis within a theoretical model of organizational mediation. Anti-discrimination law and the HR profession's pre-FRD role combine to provide incentives and resources shaping HR journal work-family discourse. Discourse employs multiple frames including business case, accommodation, diversity, and compliance, to motivate employer response to employees' work-family issues. Business case framing predominates. But consistent with HR professionals' dual mission of catering to top management's concern for the bottom line while also addressing employees' concerns, all four frames are used, in varying combinations, in complementary fashion. Articles employing a diversity frame are most likely to acknowledge the gendered nature of family responsibilities, but articles employing the business case frame acknowledge the gendered nature of family responsibilities more than half the time. Motivating

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frames are differentially associated with discussion of policies shown by prior research to promote gender and mother-other equality. Business case framing is associated with discussion of equality-producing policies far more—and compliance framing far less—than prior research would have anticipated. To the extent that HR motivating frames do promote policies that prior research suggests increase gender equality, HR mediation of FRD law can enhance gender equality.

Keywords: work-family, family responsibilities discrimination (FRD), caregiver discrimination, motherhood penalty, cognitive bias, gender stereotyping, gender equality, Title VII, civil rights, human resource (HR) management, organizational mediation, legal intermediaries, human resource (HR) discourse, diversity, business case, law compliance, accommodation

Family responsibilities discrimination (FRD) has received much attention in the United States in the last 15 years (Calvert 2016; Williams and Calvert 2006; Williams and Segal 2003). Workers with family responsibilities, more often women, sought legal redress, arguing that implicit biases against caregivers and workplaces structured around the outdated ideal worker norm held them back (Calvert 2016; Still 2006).¹ In 2000, legal scholar Joan Williams argued that “illegal gender bias” accounted for many of mothers’ negative work experiences (Williams and Bornstein 2008, 1311). In 2003, Williams and Nancy Segal were first to review litigation based on caregiver discrimination (Williams and Segal 2003). In 2007, the Equal Employment Opportunity Commission (EEOC) adopted an enforcement guidance specifying that disparate treatment of male and female caregivers could be litigated as unlawful gender discrimination under Title VII of the 1964 Civil Rights Act (EEOC 2007).

Leading up to and after the EEOC guidance, skyrocketing claims of discrimination against caregivers—Williams dubbed these family responsibilities discrimination—promoted discussion in human resource (HR) journals about how to protect employers from lawsuits and meet employees’ needs (Bornstein 2008; Calvert 2016; Still 2006). We analyze this discourse guided by a theoretical model that situates it in the mediation of FRD law’s meaning and impact.

Many advanced industrial democracies legislated substantive, national-level work-family policies, including paid maternity, paternity, parental and other care leaves and state-funded child care (Boeckmann, Misra and Budig 2015; Eliason, Stryker and Tranby 2008; Gornick and Meyers 2003). But the US addresses work-family concerns mostly through voluntary employer-provided benefits combined with anti-discrimination legislation (Albiston and O’Connor 2016; Dobbin 2009; Kelly 1999; Williams and Bornstein 2008). Key federal statutes are Title VII, the 1978 Pregnancy Discrimination Act, and the 1990 Americans with Disabilities Act (Albiston, Correll, Tucker and Stevens 2016; Williams and Bornstein 2008). The 1993

Family and Medical Leave Act, mandating that covered employers provide unpaid, job-protected leave of up to 12 weeks for family and medical reasons, is a notable exception to the absence of substantive, national-level work-family legislation in the US.ⁱⁱ

Motives for enacting policies, including work-family policies, shape policy design; policy design and implementation shape policy impact (Morgan and Zippel 2003; Stryker 2007). For the US, where business organizations are the locus of work-family policies and organizational policies mediate the meaning and impact of federal anti-discrimination law, scholars emphasize the HR profession's centrality in constructing firms' work-family policies (Albiston 2007; Edelman 1992, 2016; Kelly 1999; Dobbin 2009). Despite attention to framing work-family policies in the 1970s-mid-1990s (Dobbin 2009; Kelly 1999), no one has examined systematically HR work-family discourse after FRD's ascendance. This gap is important given debates about the impact of organizational mediation of civil rights law.

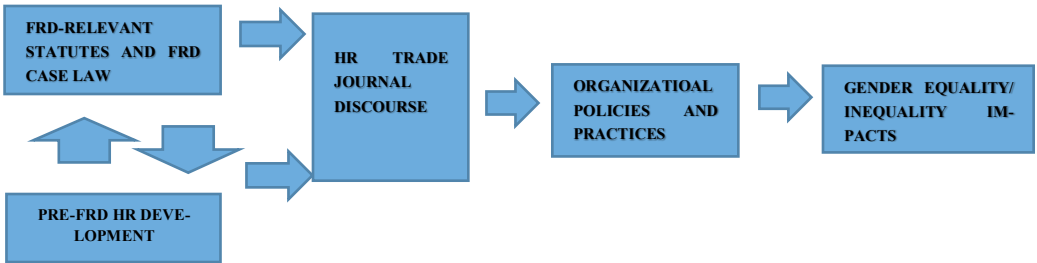
In her work on organizational mediation, through which firms mediate the impact of law on society by interpreting regulatory legislation and constructing the meaning of compliance, Edelman (1992, 2016) emphasized that, because HR constructs a "business case" for compliance, assimilating anti-discrimination mandates into good business practice consistent with efficiency and productivity, civil rights law risks becoming mostly symbolic, failing to produce egalitarian change. More optimistically, Dobbin (2009) argued that, where motives for law compliance may vary depending on firms' perceptions of legal threat levels, when enforcement pressures lessen, *reframing* law in terms of core business goals may give staying power to policies initially adopted for compliance. Without such reframing, firms might resist compliance when enforcement weakens (Dobbin 2009; Stainback and Tomaskovic-Devey 2012).

Contrasting her view with Dobbin's (2009), but consistent with Kaley, Dobbin and Kelly's (2006) findings that some firm policies increase workplace gender and racial equality while others are ineffec-

tive or counterproductive,ⁱⁱⁱ Edelman (2016) noted that Title VII brought some progress toward equality. Still, her legal endogeneity theory emphasizes the anti-egalitarian thrust of business case framing, leading firms to adopt compliance symbols such as internal grievance mechanisms, to which courts defer without inquiring if these reduce race and gender disparities. Discussing work-family policies, Kelly (1999) cautions that the business case likely blunts egalitarian change, because it is gender-neutral, fails to emphasize gender equity, and portrays work-family conflict as a private, rather than social, problem.

We use a universe of FRD-relevant articles appearing from 1980-2012 in the two highest-circulation HR trade journals to examine hypotheses about HR work-family discourse. Underscoring our study's theoretical significance and practical import, this discourse plays a mediating role in a more comprehensive model of how anti-discrimination law and the HR profession's pre-FRD role in the work-family arena combine to provide incentives and resources shaping FRD-related work-family discourse in HR trade journals. HR trade journal discourse then shapes organization-level work-family policies and practices directly reinforcing or mitigating workplace gender inequality. Figure 1 depicts this model. We do not examine the full model empirically; it serves as an orienting heuristic, organizing and inter-relating diverse literatures and debates justifying our study's significance, grounding its hypotheses, and allowing us to speculate in informed fashion about our findings' implications for gender equality.

Figure 1. HR Mediation of FRD and Gender Equality: Theoretical Model



In the next section, we discuss the FRD legal field prefaced by brief discussion of how appropriate work-family policies, including anti-discrimination law, can provide at least partial solutions to inequalities rooted in gender and caregiving. We combine discussion of the developing FRD legal field with that on key aspects of pre-FRD HR development (first block in Figure 1) to motivate our hypotheses about HR journal discourse (second block in Figure 1). Previewing implications of potential discursive findings, we mine extant research to develop likely links among HR journal discourse, firms’ policies and practices, and advancing workplace gender equality (third and fourth blocks in Figure 1).

Theoretical and Empirical Background

Research has found pay disparities associated with motherhood (Anderson, Binder and Krause 2003; Budig and England 2001; Budig

¹ We examine HR trade journal discourse (1980-2012) *because* research strongly suggests this discourse shapes organizational policies and practices, which in turn shape gender equality/inequality. Based on testing hypotheses about the content of HR journal discourse, we provide informed speculation on impact, though we cannot examine impact directly. We do not examine potential longer term feedbacks from earlier equality/inequality outcomes to subsequent law, nor potential “endogeneity of law” feedbacks between earlier organizational policies and practices and later case law. We do take such endogeneity seriously in speculating about impact, and we do discuss how the emergence of FRD law responded to gender and mother-other workplace disparities.

and Hodges 2010; Harkness and Waldfogel 1999; Lundberg and Rose 2000; Waldfogel 1997a, 1997b). Women, on average, are penalized in wages for having children, but men do not experience such a penalty,^{iv} and instead receive a fatherhood wage premium (Budig 2014, see also Glauber 2008; Lundberg and Rose 2000; Weeden 2006).

Reductions in the average US gender wage gap stalled in 2003, with women earning about 81 cents per white men's dollar; married mothers working full time average just 76 cents to the dollar earned by married fathers (Budig 2014). Because married or unmarried childless women earn on average 93 cents to the dollar earned by childless men, diagnosing and remedying mother-other disparities is crucial to reducing workplace gender inequality (Albiston 2007; Budig 2014; Budig and Hodges 2010; Budig, Misra and Boeckmann 2016).

Commonly posed causes for the motherhood penalty *other* than discrimination are partly correct. Differences in human capital, including education, job experience and workplace seniority—the latter two associated with interrupted employment for mothers due to childbearing and rearing—reduce but do not eliminate the motherhood penalty (Budig and Hodges 2010). Controlling for human capital and occupational factors influencing pay, mothers receive a wage penalty of about 5% per child relative to childless women (Albiston et al 2016).

For women, having children reduces work hours; women with young children are especially likely to be out of the labor force or working part time (Gornick and Meyers 2003). Gender and mother-other differences in time allocated to paid work account for *some* of the motherhood penalty and fatherhood bonus (Anderson, Binder and Krause 2003; Budig 2014; Budig and Hodges 2010; Lundberg and Rose 2000). But the motherhood penalty persists even controlling for work hours, qualifications, experience and various job character-

ristics (Anderson Binder and Krause 2003; Budig and Hodges 2010; Waldfogel 1997a). Adding measures tapping motivation or commitment to paid work does not eliminate the penalty (Albiston et al 2016). Increase in fathers' average paid work effort after birth of a first child contributes to, but fails to fully explain, the average fatherhood bonus (Budig 2014; Glauber 2008).^v

Because discontinuous employment, part-time and reduced work hours, and ensuing foregone job experience and skill development contribute to motherhood pay penalties and other gender disparities, appropriately designed family leave and child care provision can help mitigate these, encouraging women who otherwise might not do so to opt for continuous full-time employment (Budig et al 2016; Eliason et al 2008; Gornick and Meyers 2003). Because mothers remain penalized *controlling for* human capital and many job characteristics, discrimination becomes plausible, albeit not proven because economic models do not measure discrimination directly (Budig and Hodges 2010; England and Budig 2001). Discrimination also may occur against employees using family leave (Albiston et al 2016).

Lab experiments and audit studies *do* strongly suggest discrimination: controlling for productivity, qualifications and employment backgrounds, women perceived to be mothers or expectant mothers are judged less competent and/or less committed to their jobs, are less likely to be recommended for hire and promotion, and receive lesser recommended starting pay and performance evaluations relative to other women (Benard and Correll 2010; Benard, Paik and Correll 2008; Correll, Benard and Paik 2007). Men with children often are perceived to show more job commitment and so receive more in starting salary (Correll et al 2007).

Albiston et al (2016) highlight two likely causal mechanisms: status and normative discrimination. The first occurs through *descriptive* stereotyping associating expectations for differential competence, commitment, productivity, and caregiving with gender. Normative discrimination occurs through *prescriptive* stereotyping about how

mothers and fathers *should* act with respect to breadwinning and caregiving (Albiston et al 2016).

Fathers are supposed to be breadwinners, emphasizing paid work over caregiving; mothers are supposed to be warm and nurturing, emphasizing caregiving over paid work. Violating prescriptive stereotypes leads to perceptions of diminished warmth and likeability, in turn leading to material penalties (Albiston et al 2016). Combining descriptive and prescriptive stereotyping could cause all mothers—and fathers emphasizing caregiving by taking leave—to be presumed less committed to paid work and penalized. But mothers who do *not* take paid leave could be penalized though diminished perceived likeability *and* diminished perceived competence. Fathers who remain on the job would be rewarded for fulfilling descriptive and prescriptive stereotypes (Albiston et al 2016).

Studies show US mothers and fathers taking family leave suffer penalties including lower salaries, lower performance evaluations, and less likelihood of promotion relative to their counterparts who do not (Allen and Russell 1999; Coltrane, Miller, DeHaan and Stewart. 2013; Wayne and Cordeiro 2003). But because of gendered expectations and norm-defying behavior of men taking family leave, employers evaluate male leave takers more negatively than female leave takers (Albiston et al 2016). Women disproportionately take family leave, and do so more often and for longer periods than men (Albiston 2007; Armenia and Gerstel 2006; Gornick and Meyers 2003; Harrington, Van Heusen and Humberd 2011).^{vi} Since employers discourage and penalize male leave-taking, fathers' fears about taking leave are justified (Albiston 2007; Harrington et al 2001).

In sum, theory and research on status and normative discrimination through stereotyping and cognitive bias are consistent with defining caregiver discrimination as gender discrimination actionable under Title VII (Albiston and O'Connor 2016; Williams and Segal 2003). That both mothers and fathers taking leave suffer penalties suggests

that a policy package combining work-family entitlements reshaping gender norms while also reshaping practical incentives and constraints, *with* anti-discrimination legislation operating through similar mechanisms, could reduce the motherhood penalty and promote gender and parental equality (Budig et al 2016; Hook 2006, 2010; Tamilina and Tamilina 2014).

The FRD Legal Field: Incentives and Discursive Resources for HR

Family responsibilities discrimination is “discrimination against employees based on their responsibilities to care for family members. It includes pregnancy discrimination, discrimination against mothers and fathers, and discrimination against workers with other caregiving responsibilities” (Williams and Bornstein 2008, 1313). With 20/20 hindsight, precursors to the current legal concept go back to the Supreme Court’s 1971 decision in *Philips v. Martin Marietta Corporation* (400 US 542). Relevant lawsuits cumulated from 8 by the end of the 1970s to 97 in 1996, to 481 in 2005, to more than 4,400 by 2016 (Calvert 2016; Still 2006).

In *Philips*, the company prohibited mothers, but not fathers, of school-aged children from applying for certain jobs, arguing it did not discriminate because women without children could take these jobs. The Supreme Court ruled the company discriminated against women who were mothers. This was dubbed “sex plus” employment discrimination, in which liability arises when an employer treats employees differently based on sex plus some additional factor including, but not restricted to, having children (Still 2006).

The 1978 Pregnancy Discrimination Act and 1990 Americans with Disabilities Act joined Title VII to build toward an anti-discrimination paradigm applied to caregiving (Williams and Bornstein 2008). Case law milestones include the 1989 Supreme Court decision in *Price Waterhouse v. Hopkins* (490 U.S. 228), em-

phasizing that gender stereotyping could show sex discrimination under Title VII, and much later, *Back v. Hastings on Hudson* (2nd Cir., 2004). *Back* held that “stereotypical remarks about the incompatibility of motherhood and employment ‘can certainly be evidence that gender played a part’ in an employment decision.... stereotyping of women as caregivers can by itself and without more be evidence of an impermissible sex-based motive” (365 F. 3d 107, 122, citing *Price Waterhouse*).

Because winning a lawsuit for disparate treatment sex discrimination under Title VII traditionally required a female plaintiff to point to a similarly situated, yet better treated man—a “comparator,”—proving discrimination was very difficult. *Back* was a game changer, substantially lessening the burden of proof on caregivers seeking redress. Williams (2012, 7) recalled: “Once we got *Back vs Hastings*, then we had our landmark case.”

But because the Supreme Court had not ruled on the issue, FRD proponents pushed to promote *Back* nationwide (Williams 2012). Their efforts resulted in a highly publicized *EEOC Enforcement Guidance* (2007) on unlawful caregiver discrimination that echoed *Back*: sex-based stereotyping of mothers could prove intentional sex discrimination under Title VII.

Current FRD case law protects male and female caregivers and goes beyond parenting. FRD subsumes cases involving pregnant women fired or demoted, mothers denied promotion because they are assumed to lack commitment to or interest in work, fathers denied parental leave, adult children fired for caring for elderly parents, and parents treated adversely because they have special needs children requiring high cost healthcare coverage (Calvert 2010, 2016; Williams and Bornstein 2008). Though cases involve diverse causes of action, as a whole, FRD case law “challenges the ideal worker norm and litigates workplace/workforce mismatch as discriminatory, retaliatory, and rife with stereotyping” (Williams and Bornstein 2008, 1347).

As case law accrued, legal scholars and advocates debated appropriate framing of legal requirements, providing discursive resources for HR framing of employee caregiving issues. Some argued law required accommodating caregivers; others argued law required avoiding discrimination (Williams and Segal 2003; Williams and Bornstein 2008). While both these framings invoked law, those promoting accommodation framing pointed to Title VII's religious accommodation provision and to employers' duty to make reasonable accommodation for the disabled under the 1990 ADA (Williams and Segal 2003). *Accommodation framing* had been present in the anti-discrimination legal field since early debates over how to conceptualize legal issues posed by pregnancy (Williams and Segal 2003).

However, Williams and others strongly critiqued accommodation language for recasting institutional problems as individual ones, and for suggesting that mothers required special treatment/benefits that others did not need or warrant (Williams and Segal 2003; Williams and Bornstein 2008). According to its critics, even though accommodation framing might reference disparate treatment or refer explicitly to anti-discrimination legislation, accommodation should be jettisoned in favor of exclusive use of the discrimination concept in discussing compliance with law pertaining to employees with family responsibilities (Williams and Segal 2003). Only discrimination language had potential to decenter the ideal-worker norm, invoke institutional processes and "tap into the American commitment to gender equality" (Williams and Bornstein 2008, 1323).

By the mid-2000s, rising FRD litigation and legal advocacy provided resources for constructing HR discourse and also new opportunity and incentives for HR to emphasize the work-family arena. Employers were faced with uncertainty about implications of employee caregiving for liability for discrimination, but also litigation threat. Already by the mid-1990s, case law highlighting gender stereotyping as discriminatory, combined with caregiver discrimination cases, put

family responsibilities beyond pregnancy on the radar of employment law specialists. Still (2008) found that popular press use of discrimination frames to discuss work-family conflict increased from 1991-2006.

Overall, combining trial verdicts, settlements, the less than 1% of cases granting plaintiffs summary judgment, and damage and other relief awarded by arbitrators and agencies, FRD plaintiffs win 52% of the time, and FRD plaintiffs are far more successful at trial than other discrimination plaintiffs (Calvert 2016). Cases are found across states, industries, and large and small employers; average verdicts and settlements top \$500,000 (Calvert 2010).

Such a context of uncertainty with growing legal threat makes business firms, typically tending to inertia, amenable to law-promoted social change (Dobbin 2009; Stainback and Tomaskovic-Devey 2012). Scholars agree that employment discrimination law-promoted social change is mediated by organization-level policies framed and constructed by the HR profession. Though other professional communities—notably lawyers, management consultants and insurance agents—contribute to organizational mediation of civil rights law, the HR transmission belt is key; *HR mediation is central to organizational mediation* (Dobbin 2009; Edelman 2016). HR professionals seeking to expand their values and influence attend to publications pitched at them by legal experts. In turn, HR discourse and action frame the meaning business organizations attribute to the legal field and how they respond (Dobbin 2009; Edelman 2016).

The HR Profession and its Pre-FRD Role in the Work-Family Arena

From the 1940s until the 1980s, when it was relabeled “human resource management,” HR was known as personnel management (Edelman 2016). Coterminous with HR’s changing demographics and role, in the 1980s, Personnel Departments became Departments

of Human Resources; Personnel Managers became Directors of HR Management (Roos and Manley 1996).

In the 1960s, personnel professionals were labor-relations-trained white men (Dobbin 2009). By the early 1970s, women were entering HR, bringing equal opportunity values with them (Dobbin 2009). Women's representation in HR management increased 473% in the 1970s (Roos and Manley 1996). "By 1980, women made up half of personnel specialists and managers" and "[b]y the late 1990s, seven in ten personnel specialists and managers were women" (Dobbin 2009, 169). The profession also grew in absolute numbers; from 1980-2010, it almost doubled.

From the 1960s-1980s, HR's focus moved away from labor relations to include "equity, health, and entitlements and compensation" (Roos and Manley 1996, 255). Post-Title VII, equal employment compliance became a new specialty, making firms more interested in hiring women, and women more interested in joining HR (Dobbin 2009; Roos and Manley 1996). Women flooded education feeding HR. By the 1980s, there were MA programs in HR development; women were almost 60% of degree recipients (Roos and Manley 1996).

HR professionals had a dual mission: advocating for employees while reporting to senior managers and responding to the "bottom line" (Roos and Manley 1996). When civil rights enforcement weakened with the Reagan administration's advent, HR managers had discretion to reframe priorities (Dobbin 2009). But added freedom from forces external to business meant HR had to attend to internal constituencies, especially top managers who needed persuading that HR initiatives enhanced efficiency, productivity and profit (Dobbin 2009; Kelly 1999; Johnson and Rose 1992).

That HR played a lead role in transforming EEO-AA rhetoric into diversity management discourse while refashioning Title VII compliance as diversity initiatives, is well documented (Kelly and Dob-

bin 1998; Dobbin 2009; Edelman 2016). This too created discursive resources for HR discussion of FRD. As legal risk of Title VII enforcement waned, EEO-AA programs were reframed as fulfilling the “business case” for diversity; diversity included gender and race but also non-legal categories, e.g., cultural diversity (Edelman 2016). Where earlier risk and compliance frames justified EEO-AA to avoid legal liability, diversity framing argued that diversity promoted competitive advantage, made optimal use of women and minorities’ talents, and enhanced business innovation and capacity to serve diverse customers in globalized markets (Dobbin 2009; Edelman 2016).

Prior to an explicit FRD concept, work-family issues already were strongly present in post-Title VII HR discourse. Paralleling movement from affirmative action to diversity discourse, HR’s pre-FRD work-family discourse moved from compliance concerns in the late 1960s-early 1970s to a business case for attending to work-family issues in the 1980s (Dobbin 2009; Kelly 1999).

The EEOC’s 1972 *Guidelines on Discrimination Because of Sex* stated that employers who allowed job-guaranteed disability leave and did not do the same for maternity would be liable for Title VII sex discrimination (Kelly and Dobbin 1999). Though it was not clear whether courts would defer to this EEOC interpretation, highly publicized EEOC prosecution of numerous major companies gave “ammunition” to “women in personnel...[who] led the charge to create maternity leave programs” (Dobbin 2009, 166, 170).

By the time the Supreme Court reversed lower federal court rulings in favor of the EEOC, such that Congress had to pass the 1978 Pregnancy Discrimination Act to make firms’ pregnancy bans illegal, many firms already had established maternity leaves (Dobbin 2009). By the time of the 1993 FMLA, 75% of medium and large US employers offered maternity leave and many offered medical leave. The FMLA doubled leave provision for paternity and care of sick family members (Dobbin 2009). However, compliance discourse

waned after the 1976 Supreme Court refused to find that Title VII itself required maternity leave (Dobbin 2009).

Instead, in the 1980s-early 1990s, HR's "crusade for work family programs" relied on arguing that child care would alleviate work-family conflict, allowing women to stay on the job, while work-family balance would facilitate *all* employees focusing on paid work (Dobbin 2009, 176; Kelly 1999). Flexible work arrangements first touted as "quality of work-life programs" enhancing work commitment later were linked to "the work-family nexus of parental leave, family leave, child care, work-family workshops and the rest of flexible scheduling programs—job sharing, work-at-home arrangements, part time career programs." (Dobbin 2009, 176-77). Though flexible work "became a measure to support gender diversity after the fact" (Dobbin 2009, 179), HR professionals made the business case, presuming this had maximum persuasive power with top management (Dobbin 2009; Johnson and Rose 1992, Kelly 1999). Kelly (1999), who combined an employer survey with work-family organizations' reports, in-depth interviews with HR managers, and a database of 200 articles appearing from 1965-1998 in the *New York Times*, *Wall Street Journal* and *HR Magazine*, found the dominant advocacy frame was a business case emphasizing "increased productivity and lower recruitment and turnover costs" (Dobbin 2009, 171, see also Friedman 1991). Kelly (1999) and Johnson and Rose (1992) report that advocates saw "buy in" from top management as essential.^{vii}

In the 1980s-1990s as well, HR grew more specialized; the role of work-family manager emerged under various titles (Johnson and Rose 1992; Roos and Manley 1996). Work-family sometimes was linked explicitly to diversity and/or benefit programs (Johnson and Rose 1992).

In 1992, the Conference Board, a business research consortium, published a report tying emergence of work-family managers to feminization of HR and the business case for work-family programs.

Most work family managers were women (Johnson and Rose 1992). Though women's influx did increase EEO values in HR (Dobbin 2009), "establishing a work-family manager position is a statement about the *business importance* of work-family issues. To justify and support that statement is part of the job" (Johnson and Rose, 1992, 13, emphasis ours).

Based on survey and focus group data from work-family managers, Johnson and Rose (1992, 1) found the position involved "issues analysis, policy design and program implementation." Though including employees as well as top management as constituencies, position incumbents emphasized most the challenge of building support by "defining and communicating the business case for work-family programs" (Johnson and Rose, 1992, 17).

Organizational Mediation of FRD's Meaning and Impact

Consistent with Figure 1, we established key elements of the FRD legal and pre-FRD HR environments supplying incentives and resources for constructing FRD-relevant HR trade journal discourse. Below, we propose hypotheses specifying how we think the two fields combine to influence HR trade journal framing of: 1) *why* employers should concern themselves with employees' work-family issues; and 2) *how* employers can usefully respond. Consistent with Figure 1, studying such framing is important because it shapes organizational policies and practices that firms establish to deal with employee caregiving. These in turn affect gender disparities in employee outcomes including hiring, performance evaluations, pay and promotion. *To the extent that HR motivating frames for employers' concern with employee caregiving promote firm policies and practices that prior research suggests are associated with increased gender equality, HR mediation of FRD law should enhance gender equality.*

Research on the egalitarian impact of voluntary organizational policies is just beginning (Albiston et al 2016). But cross-national research shows that legislation mandating state-financed child care, moderate length, job-protected parental leave, and generous paid maternity and paternity leave has reduced motherhood pay penalties (Budig 2014; Budig et al 2016). In the first cross-national study examining separately the impact of *specific* work-family policies on *penalties for mothers relative to childless women*, Budig et al (2016) found that, controlling other country-level factors including the Gini coefficient, and individual-level factors including human capital, family composition, labor supply, percent female in the job, and whether the job was professional or managerial, the per-child motherhood penalty diminished across countries as the number of children under 3 and 3-6 in public day care increased.

Increasing generosity of maternity leave up to 25 weeks of paid leave diminished the per-child motherhood penalty, as did increasing paid paternity leave. Length of job-protected parental leave had a curvilinear impact. Countries providing two years of leave had the smallest per-child motherhood penalties; countries providing leaves of three years or more had larger penalties, as did countries providing 0-49 weeks. The longest leaves penalized mothers *less* than providing no leave (Budig et al 2016).

Though voluntary firm leave may not be as effective as legislation, recent experimental research suggests that the former does diminish negative evaluations of work competence and commitment that contribute to hiring, promotion, performance evaluation and salary deficits of mothers, including those who do not take leave, and of leave-taking fathers. In the absence (but not presence) of voluntary firm leave policy, leave-taking fathers are evaluated negatively relative to mothers and to fathers who do not take leave (Albiston et al 2016; Albiston 2007).

Highly paid paternity leave not transferrable between parents may be especially effective in reducing workplace gender inequality because,

beyond reducing pragmatic reasons for fathers not to take leave, it promotes normative change, signaling that men's caregiving and gender-equal households are valued (Albiston 2007; Harrington et al 2011; TAMILINA and TAMILINA 2014; Budig et al 2016). Cross national research also shows that when men living with children increase their household labor, including child care, married women are more likely to be employed (Hook 2006). Promoting full time employment for women may create mutually reinforcing increases in both household and workplace gender equality (Hook 2010).

Different types of workplace flexibility may have different effects (Weeden 2006). Whether ad hoc or formal, US flexibility policies often are negotiated individually and implemented at managers' discretion (Kelly and Kalev 2006). Combining reduced work hours, including part time work, with telecommuting and flexible starting and stopping times, Kelly and Kalev (2006) created an overarching construct of flexible work accommodations. Where researchers generally assume that using workplace flexibility brings stigma and material penalties, and part-time work and reduced work hours do so (Albiston et al 2016), when Weeden (2006) examined the impact of formally and informally established flextime and flexplace separate from that of part-time and reduced hours work, she found *wage premiums* associated with flexible work schedules and locations.^{viii} "Stronger in non-manual occupations," the premiums "[did] not vary systematically by sex or parental status" (Weeden 2006, 454). Consistent with Weeden's (2006) findings, as long as men remain slightly more likely to experience such flexible work than women, and mothers remain no more likely to do so than childless women, flexible work as defined by Weeden (2006) will not harm women, but its increased prevalence will not reduce the average aggregate motherhood penalty or gender wage gap.

Though less is known about the impact of cultural interventions, Albiston and O'Connor (2016) point to possible destigmatizing results from employer efforts to discourage co-worker and supervisor com-

ments denigrating employees who take childcare leaves. They and Perlow and Kelly (2014) suggest that programs such as Predictability, Teaming and Open Communication (PRO) and Results Only Work Environment (ROWE) destigmatize flexible work schedules because they change both formal, discretionary policies and “the structure of work and organizational cultures to make the workplace accepting of new ways of working” (Perlow and Kelly 2014, 114).

Combining other structural and cultural interventions likewise could be effective. Diversity committees and task forces, managerial participation in college recruitment, and employee mentoring programs increase representation of women and minorities in management by enhancing managerial engagement, positive contacts among diverse co-workers, and social accountability for meeting diversity goals (Dobbin and Kalev 2016). In the work-family arena, accountability, co-worker and management commitment to mutual support for work-life balance, and managerial engagement might help increase gender and caregiver-other equality.

Research Hypotheses

Having shown that legal and business environments provide multiple reasons for employers to concern themselves with employee caregiving, we propose:

H1: *There are multiple motivating frames used in HR journals, including complying with anti-discrimination law, accommodating employees with family responsibilities; promoting workforce diversity and representation of those with family responsibilities; and improving the bottom-line by addressing employees’ family responsibilities (thus making a business case for concern and action on this issue).*

Prior research highlights the strategic nature and pervasiveness of the business case. Consistent with changing opportunities and incentives

offered by the time trajectory of FRD law, the prevalence of business case framing should be stronger when threat of employer liability for family responsibilities discrimination is weaker. We propose:

H2: *From 1980 to 2012 overall, the predominant HR motivating frame for concern about employees with family responsibilities is the business case.*

H3: *The largest predominance of business case framing for concern about employees with family responsibilities is in the 1980s; the largest predominance of compliance framing for concern about employees with family responsibilities is in the 2000s. The 1990s invokes compliance less than the 2000s, but more than the 1980s.*

Prior research suggests that, as civil rights enforcement wanes, HR discourse tends to *substitute* business case framing for compliance framing. But prior research *links* diversity with work-family, suggesting that both program areas emphasize the business case. Legal debate *linked* accommodation with law compliance. We propose:

H4: *Articles often use multiple motivating frames and these frames co-occur disproportionately in predictable ways.*

H4a: *Business case framing co-occurs most often with the diversity frame, and least often with the compliance frame.*

H4b: *The diversity frame co-occurs most often with business case framing, and least often with the compliance framing.*

H4c: *The accommodation frame co-occurs most often with compliance framing.*

H4d: *The compliance frame co-occurs most often with accommodation framing and least often with business case framing*

Prior research also suggests that HR motivating frames may be differentially associated with gendered vs. gender-neutral discussion. In

the newspaper and HR journal discourse she examined for 1965-1998, Kelly (1999) found little explicit discussion of gender equality as a reason for firm work-family policies. We view discussion of the gendered impact of caregiving as signaling at least weak concern for gender equality. Yet prior research also suggests that because strict gender neutrality is seen as strategic in justifying work-family programs to top management, business case framing of concern for employees' family responsibilities remains gender neutral. Edelman (2016) found that diversity rhetoric included categories beyond those identified in law, but did not examine HR work-family discourse. Because caregivers are disproportionately women and women disproportionately use part-time and reduced-hours work, and family leave, we propose:

H5: *Motivating frames differ in their likelihood of being accompanied by an acknowledgment of the gendered nature of family responsibilities.*

H5a: *Articles employing a diversity frame are the most likely to acknowledge the gendered nature of family responsibilities.*

H5b: *Articles employing a business case frame are the least likely to acknowledge the gendered nature of family responsibilities.*

To inform discussion of the impact of HR mediation of FRD law on gender equality and contribute to debates about the equality implications of organizational mediation of civil rights law, we explore potential differential association of diverse work-family policies with different motivating frames. We propose:

H6: *Motivating frames for addressing employees' family responsibilities issues differ in the extent to which they co-occur with discussing firm policy/practice solutions known to increase gender equality.*

Data and Methods

We analyzed the top two human resource journals in circulation—*HR Magazine* and *Workforce*—from 1980-2012.^{ix} We present findings on all 287 FRD-relevant articles published in both journals during this time, 154 from *HR Magazine* (titled *Personnel Administrator* from 1980-1989), and 133 from *Workforce* (titled *Personnel Journal* from 1980-1996, *Workforce* from 1997-June, 2003 and *Workforce Management* from July 2003-present).^x

The Sample

We purposively selected journals and time frame, but included the full population of relevant articles within this sampling. Our 1980 start date means we include fully the period in which uncertainty about this potentially new form of prohibited discrimination arose and moved toward resolution.

The Articles

Using ProQuest, we accessed full text of each article.^{xi} We used a search term combination that pre-testing proved to return articles most relevant to FRD: ((FRD OR "family responsib*" OR caregiv* OR mother* OR father*) AND (bias OR discrimin* OR law OR legal OR accommodat*)) OR (("work life" OR "work-life") AND (bias OR discrimin* OR law OR legal OR accommodat*)) OR (("Title VII" OR "Title 7" OR "Pregnancy Discrimination Act" OR FMLA OR "Family and Medical Leave Act") AND (caregiv* OR "family responsib*")))

We omitted clearly irrelevant articles and those without relevant, substantive discussion of employees' caregiving-related issues. Exemplary of irrelevance, an article might say we learn from our mothers and fathers, later stating someone worked as a law librarian. With respect to non-substantive discussion, it was common when describing firm-provided employee services to list "work/life balance program" along with other services, but provide no further explanation. Because this term can denote services having nothing to do with caregiving, e.g., offering employees an onsite gym, we omitted articles if they only mentioned work/life balance with no mention of employees' family responsibilities. Work-life balance is broader than FRD and we thought it appropriate to delimit our database consistent with the FRD concept.

All research team members reviewed omission decisions to ensure consistency. Articles retained had substantive discussion of employees' family responsibilities and often also of relevant laws or company policies.

Coding

Using NVivo 10, two of us coded the 287 articles, recording article title, author(s), publication source and year. After identifying discussion of an employment problem (e.g., absenteeism from employees with occasionally ill children), we coded the frame(s) used to motivate concern about employees' family responsibilities, the organizational policies/practices presented as potential solutions, and the gendered vs. gender-neutral nature of discussion. We used a random 10% subsample of articles to check inter-coder reliability and achieved a 95% inter-coder reliability score.

We categorized motivating frames inductively, based on holistic interpretive reading while employing specific search terms to check whether we classified frames consistently with respect to commonly

used catch words and phrases that our reading suggested were useful in signaling a particular motivating frame or distinguishing among frames. For example, business case framing sometimes referred to productivity; when invoked, productively almost invariably signaled business case framing. In our results section, we provide more information on defining and operationalizing frames. An article might include one or more motivating frames.

We coded articles as gendered vs. gender neutral by checking for discussion of impact on or relevance to a *particular* gender/sex, whether male or female. To qualify as “gender neutral,” the entire article had to discuss caregiving purely as a gender-neutral employee issue. Any mention of working *mothers* or passing comment about how work-family issues may affect women and men *differently/unequally* was enough for the article to qualify as “gendered,” even if the rest of the article spoke in gender-neutral terms. Most gendered articles referenced women and mothers; some emphasized the relevance of work-family issues to working fathers or men. None said *men* were impacted more adversely by family responsibilities.

Combining inductive and deductive strategies, we identified and coded all policies/ practices each article mentioned as addressing employees’ family responsibilities. We coded inductively to catch potential organizational responses and variations on labeling of organizational responses that prior work-family scholarship may not have discussed, but also consulted that scholarship to generate lists of work-family policies/practices.

After tagging mentioned firm policies and practices as “solutions,” we used “solution” passages to generate a list of specific solutions ranging from mentoring programs for parents to lactation rooms, family leaves, and on-site daycare, to family picnics. Rereading to code each article for the presence/absence of each solution, plus additional solutions we may have missed gave us a final list of 45 firm policies/practices addressing employee caregiving.

Coding a specific policy/practice does not mean it is *promoted*, only that it is *discussed*. Some articles state some companies tried a particular solution. Others discuss advantages and disadvantages of a particular solution without drawing conclusions. Only a few articles advocate for a given policy/practice, urging its adoption. Since articles generally take a descriptive rather than prescriptive tone, it is hard to identify solutions clearly promoted by a given article/author(s). We coded all discussion of each solution^{xii} because we think talking about these in widely-circulated HR journals and exposing HR professionals to them as possibilities matters for proliferation of organizational policies and practices.

Results

Content and Relative Incidence of Motivating Frames

Supporting H1, interpretive analysis identified four types of motivating frames. Some articles rely on a business case emphasizing improving the bottom line. Some articles extol accommodating or supporting certain groups of workers, especially women disproportionately burdened with caregiving, and some discuss what is required to comply with evolving law. Some articles emphasize the need or importance of increasing (gender) diversity in the workforce, especially in top executive positions. Table 1 provides a definition of each frame, along with illustrative examples and catch words and phrases often associated with the frame.

Table 1: Motivating frames, HR Magazine and workforce, 1980-2012*

Motivating Frame	Definition	Illustrative quotations	Catch words and phrases
Business Case	<p>Motivates addressing employees' family responsibilities as means to influence the bottom line. Often mentions cost-saving features (e.g., greater retention, reduced retraining and operating expenses) or income-generating measures (e.g., increased productivity, improved corporate image).</p>	<p>“Family programs have given us a big competitive edge. We have people who want to work for the bank because they’ve heard about our family friendly policies...It’s helped us in recruiting and retaining people” (<i>HR Magazine</i>, May 1992, p. 89); “Some employers measure the advantages of telecommuting...by analyzing changes in turnover rates, absenteeism, and productivity” (<i>HR Magazine</i> June 2011, p. 33);</p> <p>“An independent economic study of the [Los Angeles Department of Water and Power’s] lactation [support and private lactation expression room] program showed a return of between \$3.50 and \$5 for every \$1 spent. In addition, the organization benefited from increased employee loyalty, improved productivity, better recruitment and an enhanced public image” (<i>HR Magazine</i>, March 1999, p. 68); "Employees in Corporate America scream out in surveys, interviews, and elsewhere that work/life is not a soft issue. It has direct bottom-line implications that are driven by retention, productivity, and on-the-job performance" (<i>Workforce</i>, August 1999, p. 54);</p>	<p>Bottom line, cost savings; improve recruitment, retention, productivity, morale, loyalty; reduce absenteeism, turnover.</p>

Accommodation	Motivates addressing employees' family responsibilities as means to support, help, meet needs of, or accommodate employees who are family caregivers.	"We want our employees to feel that the firm is supportive of them as individuals" (<i>HR Magazine</i> , June 2004, p. 76); "Managers cross-train employees in different departments so they can find someone to fill in... such training allows managers to accommodate... vacations [and] one female production worker who asked to be put on the night shift during the summer when her children were out of school" (<i>HR Magazine</i> , November 2011, p. 40); "Since the [flexible vacation] program's inception, Dole employees appear satisfied...HR has been particularly able to accommodate working parents who need more flexibility for their children or those with elder-care responsibilities" (<i>Workforce</i> August 1996, p. 78).	Accommodate, support, meet needs, help caregivers, employees with children
Diversity	Motivates addressing employees' family responsibilities to increase the representation of a specific group of employees, typically women, working mothers or parents; emphasizes contributions or attributes of working women, mothers or parents.	"The dearth of upward mobility for women is puzzling in light of recent research, which suggests that women possess a unique combination of interpersonal and work ethic traits that seem tailor-made for the management ranks" (<i>HR Magazine</i> , June 2011 p. 41); "[The company's] diversity efforts... began by tackling... what issues there were for women in the workplace" (<i>HR Magazine</i> , November 2003, p. 60); "Building a diverse workforce rests on an employer's ability to attract and retain female and minority employees..." (<i>Workforce</i> , December 2002, p. 38); "Moreover, well-educated working mothers provide a high-quality and mature work force..." (<i>HR Magazine</i> , April 1986, p. 124).	Diverse, diversity

Compliance	Motivates addressing employees' family responsibilities as means of complying with law/avoiding litigation	"As federal disability and leave laws become infinitely more complex, so does coordinating compliance" (<i>HR Magazine</i> , August 2010, p. 85); "The [Affordable Care Act] says employers must provide a 'reasonable' amount of break time... for employees to express breast milk for up to one year following the birth of a child" (<i>HR Magazine</i> , April 2011, p. 93); "Tylo's case could help clear the way for other such pregnancy discrimination lawsuits. The number of cases already is on the rise...Mark Kobata a partner in the law firm of Barlow, Kobata and Denis...cautions human resources professional to continue being vigilant in ensuring that pregnant women aren't discriminated against in the workplace" (<i>Workforce</i> , Feb 1998, p. 13).	Law, legal, lawsuit, legislation, reform, code, mandate, litigation
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*We use *Workforce* and *HR Magazine* as the titles of our two publications throughout. From 1980-1996, *Workforce* was titled *Personnel Journal*; from 1997-June 2003, it was titled *Workforce*; and from July 2003 –present; it is titled *Workforce Management*. From 1980-1989, *HR Magazine* was titled *Personnel Administrator*.

Business case framing motivates HR professionals to address employee caregiving and “sell” employee-friendly solutions to potentially resistant executives and supervisors to improve the bottom line or generate investment returns, emphasizing cost-saving such as greater retention and reduced training and operating expenses and/or income generating measures, including improving corporate image and increasing productivity, efficiency or profit. Typifying business case motivation, a May 1996 *HR Magazine* article notes (105):

Along with telecommuting, these [paid time off and snowy day child-care] programs are among the most innovative flexible arrangements offered...we anticipate that these new programs will achieve the objective of improving employee recruitment, retention, productivity, and, ultimately, the company's bottom line...Flexible work arrangements are helping Chubb's high-performing workers achieve the proper balance. In turn, the company anticipates a maximum return on the substantial investments made in its em-

ployees. Improving productivity, employee retention and customer satisfaction simply makes business sense.

Table 1 provides more examples of business case framing.

Accommodation framing motivates HR professionals to address employees' family responsibilities to meet needs of certain groups, typically caregivers but sometimes employees generally. A May 1998 *Workforce* article explains, "Certainly a central component of women's inability to enter upper management levels is the lack of an environment that acknowledges and accommodates their other roles in life, such as caregivers" (83). Table 1 contains other examples.

As these examples show, some instances of accommodation framing use the word accommodate but some do not. Sometimes, explicit use of the word accommodate was associated with explicit *rejection* of accommodation framing. We did *not* code this as accommodation framing, but it is meaningful in echoing FRD legal advocates' fear that use of the term accommodate would promote resistance. For example, one article stated: "If employees—especially managers—view the workplace flexibility program as an accommodation for people with special needs, they will not accept it" (*HR Magazine*, February 1996, 52; more examples available in Appendix).

A third motivating frame is diversity, focusing on hiring and/or retaining a diverse group of employees. Discussions tend to express concern about women's representation in management or other promotion-track positions. Some instances focus solely on women's *representation* (See examples in Table 1). Others discuss positive traits women bring to the workforce. A May, 1988 *Workforce* article states:

A [bank] survey of 32,000 employees uncovered five myths that stood in the way of women having full representation in senior positions... Myth 2 was that women had babies and quit... Myth 4 was that they didn't have the 'right stuff'... The best managers now use a

more collaborative, inclusive style—a style women often instinctively bring to the workplace.

Compliance is the fourth frame motivating HR professionals to address employee caregiving. Invoking law and need to comply and/or avoid litigation, this frame may discuss law as a problem for companies or it may present firm policies/practices as a means for law compliance. A typical example comes from the April 2011 issue of *HR Magazine* (93): "The [Affordable Care Act]^{xiii} says employers must provide a 'reasonable amount of break time...for employees to express breast milk for up to one year following the birth of a child.'" Additional examples in Table 1 highlight legal complexity and evolving legal interpretation.

Table 2 shows results for H2.

Table 2: Prevalence of Motivating Frames, *HR Magazine* and *Workforce*, 1980-2012*

Motivation Frame	Number (Percentage) of Articles Employing Frame
<i>Business case</i>	147 (51%)
<i>Accommodation</i>	123 (43%)
<i>Law compliance</i>	53 (18%)
<i>Diversity</i>	28 (10%)

*The sum of the percentages exceeds 100% because some articles employed more than one motivating frame.

Examining first the total incidence and percentage of articles employing each of the frames, 1980-2012, H2 is supported. Incidence of business case framing is highest; slightly more than half the articles employ this frame. Accommodation framing is in 43% of the articles. Just 18% and 10% respectively employ compliance and diversity framing. Because some articles contain more than one motivating frame, percentages sum to more than 100%. We discuss this further in presenting findings about frame co-occurrences.

Table 3 does not provide much support for H3.

Table 3: Motivating Frames Over the Decades*

	Business	Accommodation	Law Compliance	Diversity	TOTAL
1980s	5 (62%)	4 (50%)	2 (25%)	2 (25%)	8
1990s	72 (58%)	54 (44%)	19 (15%)	8 (6%)	123
2000-2012	70 (45%)	65 (42%)	32 (21%)	18 (11%)	156

*The sum of the percentages for each decade exceeds 100% because some articles employed more than one motivating frame. We also conducted analysis comparing the 2000-2009 period with the strictly analogous 10 year periods of the 1980s and 1990s. This altered percentages of each type of co-occurrence only slightly, such that substantive interpretation remains the same.

The business case receives its highest percentage use in the 1980s, but not by much and the difference between business case and accommodation framing incidence is 12% in the 1980s, but 14% in the 1990s. Total numbers of 1980s cases are too small to infer similarities/differences in 1980s framing vs. later. Consistent with virtual absence of explicit legal discourse about caregiving-based discrimination in the 1980s, the major difference between the 1980s and later is *incidence* of relevant articles (but see n. 11). Though 1980 was our beginning point, we found no relevant articles until 1984.

We do see a greater percentage of compliance framing in the 2000s than the 1990s, but *not* than the 1980s. Even in the 2000s, when concern about FRD litigation risk/threat should have been highest, we see far more use of business case than of compliance framing. This may be because compliance as we defined it references more than litigation threat, and because, although the FRD concept did not fully crystallize until the 2000s, Title VII, the ADA and the Family Leave Act all predated this.^{xiv} It also may be because multiple frames co-occur so often in single articles that frames tend to *complement* rather than *substitute* for each other.

Co-occurrence of Multiple Frames

Examining co-occurrences, Table 4 shows support for H4

Table 4: Co-Occurrence of Motivating Frames*

	Business	Accommodation	Diversity	Compliance
Business	--	72 (59%)	14 (50%)	14 (26%)
Accommodation	72 (49%)	--	11 (39%)	13 (25%)
Diversity	14 (10%)	11 (9%)	--	0 (0%)
Compliance	14 (10%)	13 (11%)	0 (0%)	--
TOTAL	147	123	28	53

*Percentages do not sum to 100% because not all articles have frame co-occurrences. Percentages in each column give the proportion of articles with the column-designated frame that also contain each row-designated frame. For example, 10% of articles with the business case frame also have the compliance frame, but 26% of articles with the compliance frame also have the business case frame.

Though compliance framing is least likely to co-occur with other motivating frames, 51% (27) of the 53 instances of compliance framing are in articles that also contain at least one other frame. Of 147 instances of business case framing, 100 (69%) are in articles that also include one or more other frames. Of 123 accommodation framing instances, 96 (78%) are in articles that also include one or more other frames. Twenty-five of 28 instances of diversity framing (89%) are in articles that include one or more other frames. Thus, HR journals often rely on multiple logics to motivate HR professionals and through them, employers, to concern themselves with and address workers' family responsibilities.

Delving more deeply, Table 4 supports H4b, but not H4a, H4c, or H4d. Inconsistent with H4a, we do *not* find that business case framing co-occurs most often with diversity and least often with com-

pliance framing. Business case framing co-occurs *most* often with accommodation framing (49% of business case framing instances appear in articles that also contain accommodation framing), and equally often with diversity and compliance framing (10% of the time). Inconsistent with H4c and H4d, we do not find that accommodation framing co-occurs most often with compliance, nor that compliance frames co-occur most often with accommodation and least often with the business case. Instead, accommodation framing co-occurs most often with business case framing (72 of 123 or 59%), and compliance frames co-occur slightly more often with business case (14 of 53 or about 26%) than with accommodation framing (13 of 53 or 25%).

When business case and accommodation framing appear in the same article, meeting employees' needs is presented as promoting or consistent with, rather than antithetical to, business success. An October 2007 *HR Magazine* (37) noted: "Today, employees and employers are working together to find new ways to restructure the workplace in unique ways to give people the flexibility they need and to improve bottom-line business measures like productivity and retention." Such discourse encourages HR personnel to believe the policies they promote meet employee *and* employer needs/goals and to market to top management accordingly.

Sometimes an article suggests meeting needs of employees who might seem especially costly or problematic for employers is a smart business investment. A December 2005 *HR Magazine* article (48-49) instructs:

A company that enables an employee to stay on the job rather than leave to care for a special needs child can avoid the high cost of replacing that person... There is also a business case for making special efforts to retain employees with special-needs children. Parents who have found ways to manage their special responsibilities might be

able to apply those particular talents—whether in advocacy, negotiation, or multitasking—in their jobs.

This discourse stresses complementarity among the business case and accommodation rationales, and diversifying to include employees with special needs children, while also showing overarching emphasis on the bottom line.

Consistent with HR professionals perceiving their marketing function to top management as an essential pre-condition for enacting policies meeting employees' needs or promoting EEO values, an August 2007 *HR Magazine* article (110) draws on scholarly and legal concepts, emphasizing complementarity among law compliance, accommodating female caregivers, and attaining business success:

While work/life balance is gender neutral in theory, as long as women have greater responsibilities in terms of child care, it is connected to gender in fact...A formal or de facto full-time-only rule may be gender neutral on its face but will have a disparate impact on women.

To prevent a maternal wall from supporting the glass ceiling, organizations need to reassess their policies with regard to flexibility. This includes...part-time as well as flexible schedules.

This is not simply to avoid legal problems. We need part-time work because there are not enough stellar full-time workers...[T]o prohibit or devalue part-time work is to exclude a disproportionate number of highly qualified women and to narrow the pool of top-notch talent.

That compliance and business case frames *do* co-occur suggests the two often are *complementary*, rather than—as prior literature implies—necessarily *substitute* frames. This helps explain why, in testing H3, we did *not* find business case and compliance framing occurred disproportionately in different time periods. An April 2007

HR Magazine article (119) states: “Providing employees on alternative schedules with comparable work assignments not only reduces the risk of family responsibility discrimination claims, but it also promotes job satisfaction and can reduce attrition in your workforce.” The previously quoted August 2007 *HR Magazine* article combining compliance, business case and accommodation frames pushes complementarity hard to insist that business logic *solves*, as well as motivates employers to address, employees’ caregiving issues. “A critical part of breaking down the maternal wall is to recognize that some decision-makers still focus too much on face time and not enough on the bottom line” (113). Here, maintaining competitive edge *leads to* FRD compliance.

Consistent with H4b, half of diversity framing instances are in articles that also include business case framing. There are no instances in which diversity and compliance frames co-occur. Interpretively examining articles in which diversity framing co-occurs with business case framing shows that, in these instances, diversity is presented as a necessary or appropriate strategy for business success. A January 1996 *Workforce* article (32) stated: We aren't going to be successful if we don't become more creative and more innovative. And we won't be more creative and innovative if everybody is alike...To get that, we've got to have diversity.”

In short, HR journals use co-occurring frames to appeal to HR professionals’ dual mission: responding to employee concerns while safeguarding the bottom line. These journals also use co-occurring frames to provide HR personnel with resources to persuade top management to comply with EEO law and/or enact EEO values *because* these promote successful for-profit business. We expand on implications of frame co-occurrence in our discussion.

Motivating Frames and Gendered vs. Gender-Neutral Discussion

Half the articles discussed caregiving as gendered; half spoke in strictly gender-neutral terms. Most gendered articles exemplified our

minimalist definition, for example, by mentioning working mothers. But, as illustrated by the “maternal wall” quotation above, a few contained more elaborated discussion, even explaining why gender neutrality was inappropriate in discussing work-family issues.

Moving to disproportionate association of gendered discussion with specific frames, Table 5 provides substantial, but not full, support for H5.

Table 5: Motivating Frames and Discussion of Family Responsibilities as Gendered vs. Gender-Neutral, *HR Magazine* and *Workforce*, 1980-2012*

Articles with Each Motivating Frame	Gendered	Gender-Neutral	Total
<i>Business case</i>	78 (53%)	69 (47%)	147
<i>Accommodation</i>	65 (53%)	58 (47%)	123
<i>Law compliance</i>	30 (56%)	23 (43%)	53
<i>Diversity</i>	24 (86%)	4 (14%)	28
<i>TOTAL ACROSS ALL FRAMES</i>	144 (50%)	143 (50%)	287

*Because of frame co-occurrences, articles containing any given frame may contain other frames as well.

Consistent with H5a, articles employing diversity framing are far more likely than others to acknowledge caregiving’s gendered nature. They do so 86% of the time, typically treating family and caregiving issues as disproportionately affecting women. Inconsistent with H5b, articles employing business case framing are *not* least likely to acknowledge caregiving’s gendered nature. Instead, articles employing business case and accommodation frames are equally

likely to acknowledge the gendered nature of caregiving (53% of the time) and only slightly less likely to do so than articles employing compliance framing (56% of the time).

Because we coded gendered vs. gender neutrality at the article level, percentages associated with each frame in Table 5 include not just articles employing that particular frame by itself, but also articles in which the frame co-occurred with other frames. (This explains how just half the *articles* are gendered, yet all percentages for specific frames show greater than 50% are gendered.) We checked results in Table 5 against results from an analysis on a restricted sample of articles containing just one frame. The second analysis (discussed further in the Appendix), also confirms H5a.

Despite failure to confirm H5b, interpretive analysis unearths some evidence consistent with our argument for proposing this hypothesis. A March 1999 *HR Magazine* article (p. 70) reasserts gender neutrality even while recognizing gender difference, indicating that lactation supports “new mothers” (accommodation), but also is a “low-cost, high impact program” (the business case) providing a “morale boost” not just to these women but also to their husbands, who telephone and e-mail to say “this program was great.” At the article level, discussion is gendered, but the business case for lactation emphasizes benefits across genders (more examples in online appendix).

HR Mediation and Gender Equality

Some scholars think gender-neutral HR discourse signals less likelihood that firms adopt gender equality-producing policies. But HR professionals may see gender-neutral discourse as strategic to promote policies disproportionately helping women. So, gender-neutral discourse may not preclude discussing equality-promoting policies. We cannot examine impact, but, consistent with H6, our results show that frames are differentially associated with discussing policies

shown by prior research to increase gender and mother-other equality.

Table 7 in our Appendix presents all policies/practices discussed as addressing employees' family responsibilities, showing the total number of articles discussing each policy/practice and the number of articles discussing each policy/practice that are associated with each of the four frames. Based on prior research, we categorized each policy/practice as *equality-producing*, *inequality-reproducing* or *impact unknown*. Unless prior research provided fairly strong evidence suggesting classification as equality-producing or inequality-reproducing, we classified impact as unknown.

Table 6 presents results, with policies/practices classified as in Table 7. Out of 287 articles, 180 (63%) discuss one or more firm policies/practices as potential solutions to employees' caregiving issues.

Table 6: Solution Impacts by Motivating Frames, with Column Percentages*

	Business	Accommodation	Diversity	Compliance	TOTAL
equality-producing solutions	82 (56%)	58 (47%)	13 (46%)	10 (19%)	117
inequality-reproducing solutions	28 (19%)	18 (15%)	7 (25%)	8 (15%)	43
Solutions with unknown impact	75 (51%)	52 (42%)	12 (43%)	14 (26%)	120
TOTAL	147	123	28	53	

*Column percentages do not sum to 100% because articles can discuss multiple solutions with various impacts. Also, the frequencies indicate the number of *articles* discussing solutions with a particular impact and/or employing a particular motivational frame, not the number of solutions or frames (again because articles often discuss multiple solutions and/or use multiple frames). For example, 117 articles discuss equality-producing solutions, 147 articles employ a business frame, and 82 articles employ a business frame and discuss equality producing solutions.

Table 6 shows that 56% of articles employing business case framing also discuss equality-producing policies/practices, three times more than the 19% of articles with compliance framing that discuss equality-producing policies/practices. Articles using business case framing also discuss equality-producing policies/practices more so than articles employing accommodation (47%) or diversity framing (46%), despite that articles using diversity framing disproportionately employ gendered discussion.^{xv}

Overall, 117 of 180 articles (65%) containing potential solutions discuss equality-producing policies/practices. Just 43 (24%) contain inequality-reproducing policies/practices and 120 (67%) contain policies/practices with impact unknown based on existing research (Tables 6 and 7). Part-time work is by far the most mentioned gender inequality-reproducing policy discussed. There are a few mentions of unpaid parental leave, producing inequality because women disproportionately take it.^{xvi}

Because egalitarian implications of expanded flextime and flexplace depend on whether more women relative to men, and mothers relative to others, take up the programs, we examined results with these policies removed from equality-producing. Doing so, the percentage of articles employing the business case that also discuss equality-producing solutions *declines substantially*. Now articles with diversity framing—which also are most likely to contain gendered discussion—are most likely to discuss equality-producing solutions (43%), with business case articles second (35%), accommodation articles third (30%), and compliance articles last (9%) (Tables available from authors). We conducted other sensitivity analyses; these did not alter results (see Appendix).

We examined whether variable proportions of gendered vs. gender-neutral discourse across motivating frames helped account for differential association of the frames with equality-producing solutions. Across all frames, gendered and gender-neutral discourse were about equally likely to be associated with discussion of equality-producing solutions (41% for Table 7 coding). Alternative coding of equality-producing solutions changed the number of these solutions but not the equivalence of percentages across gendered vs. gender-neutral articles (Tables available from authors). *Gendered discourse was neither necessary nor sufficient for discussing equality-producing solutions*. This conclusion is reinforced by associations between gendered discourse and presence of equality-producing solutions *within categories of motivating frames*, restricting the sample to

those articles that contained only one motivating frame to maximize potential variability among frames (see Appendix for results).

In sum, and contrary to the thrust of prior research, business case framing is substantially *more* likely than compliance framing to be associated discursively with equality-producing policies/practices, even with flextime and flexplace removed from the equality-producing category. When flextime and flexplace *are* classified as equality-producing, business case framing is associated a majority of the time with policies/practices that prior research suggests can reduce workplace gender and mother-other inequalities. As well, articles with business case framing *only* that also are gender-neutral discuss equality-producing policies even *more* than do business-case-only articles that are gendered. However, because flextime and flexplace are invoked more often than other potential equality-producing solutions, and more often than any other potential solution *except* inequality-reproducing part-time work, we consider further implications of these policies' prevalence below.

Discussion and Conclusion

Because the US addresses work-family concerns mostly through voluntary employer-provided benefits combined with anti-discrimination legislation, organizational mediation of anti-discrimination law is key for determining the content and outcome of employers' response to employees' caregiving issues. Centrality of organizational mediation means centrality of HR journal discourse, to which HR professionals look to guide their own discourse and action.

We examined hypotheses pertaining to FRD-related discourse, 1980-2012, in the two highest-circulation HR trade journals, situating analysis within a theoretical model of organizational mediation specifying how anti-discrimination law and the HR profession's pre-

FRD role in the work-family arena combine to provide incentives and resources shaping FRD-related work-family discourse. We presume that trade journal discourse works through discourse and action of HR professionals to shape organization-level work-family policies/practices that directly reinforce or mitigate workplace gender inequality.

We found a multiplicity of frames in HR journal discourse motivating employers' concern with, and response to, work-family issues. Business case framing dominates FRD-related HR trade journal discussion, 1980-2012. Inconsistent with prior literature's assumptions, even in the 2000s, with litigation threat highest, there is far more use of business case than compliance framing.

Co-occurrence analyses showed that FRD-related HR journal articles typically rely on multiple motivating frames. Unlike prior findings and discussion of HR discourse pertaining to affirmative action (Edelman 2016) and pre-FRD work-family policies (Kelly 1999; Dobbin 2009), FRD-related business case framing fairly often complements, rather than substitutes for, compliance framing. Consistent with HR's dual mission, requiring catering to top management's bottom line concerns while also addressing employees' work-family concerns, all four frames are used, in varying combinations, in complementary fashion. HR trade journal discourse responds to the role strain HR professionals would experience when feeling themselves caught between employer and employee constituencies with conflicting needs/interests. To the extent that today's HR professionals, a majority of whom are women, can see themselves simultaneously serving low and mid-level employees *and* top management, and to the extent they can see themselves serving their own EEO values *and* their company's bottom line, they will experience less role strain.

To the extent HR professionals persuade top management to adopt work-family practices enhancing law compliance, increasing gender diversity, and accommodating caregiving *because* these are consistent with or—better—*necessary* to achieving efficiency, productivity

and profit, HR expands its influence and numbers, furthering professional interests. Without top management support, HR personnel in business cannot flourish. Since prior literature shows the greatest challenge for HR work-family personnel is gaining top management support, it is not surprising that frame *complementarity* often becomes frame *assimilation*, in which gender diversity, meeting employees' family-related needs, and complying with law are promoted as good business. Many co-occurrence examples have this discursive structure, in which all three *non-business* case frames, while analytically distinct, serve the bottom line.

Though we could not examine impact, examining gendered vs. gender-neutral HR discourse, and associations between motivating frames and policies/practices that prior research suggests promote or impede workplace gender equality provides clues and orients us to research priorities. Much prior research points toward pessimism. Our findings suggest more nuance.

Reasons for pessimism advanced by researchers include predominance of business case framing in HR discourse along with assumptions that: 1) business case discourse is overwhelmingly gender-neutral and gender-neutrality precludes or diminishes gender-egalitarian organizational response; and/or 2) business case discourse substitutes for compliance discourse, producing symbolic responses that do not enhance gender equality.

While we did find predominance of business case framing, we also found that articles with this framing acknowledged the gendered nature of family responsibilities 53% of the time. In part this stems from frame co-occurrence and complementarity—articles with *only* business case framing were gender-neutral a majority of the time. Prior literature highlights ascendance of business case motivation for diversity *policies*, and we found substantial co-occurrence between business case and diversity *discourse*, but the small minority of articles employing diversity framing are gendered 86% of the time.

The even small number of articles employing *only* diversity framing are *always* gendered.

Thus, the HR discourse we examined is *less* gender neutral than expected. Still, we used a broad, lenient definition of what counted as gendered discourse. Extensive discussion of the inegalitarian workplace implications of gendered caregiving was atypical.

The most telling part of our analysis with respect to potential impact is that showing how motivating frames are associated with organizational policies/practices discussed as solutions to employees' caregiving issues. Business case framing in FRD-related articles was *more* associated with gender equality-producing policies than prior research on organizational mediation of civil rights law led us to expect. When flextime and flexplace are included as equality-producing, articles employing business case framing are *most* likely to include equality-producing policies and do so over half the time.

Relative to prior research, our findings about the relationship between gendered discourse and discussion of equality-producing policies also are telling, showing that gendered discourse is neither necessary nor sufficient for discussion of equality-producing policies. Overall, gendered and gender-neutral articles discuss equality-producing policies at the same rate. Within categories of motivating frame—and depending upon coding of equality-producing policies—business case frame articles that are gender-neutral discuss pro-equality policies as much or more than do gendered business case frame articles. Almost as large a percentage of gender-neutral accommodation frame articles discussed equality-producing solutions as was the case for *gendered* diversity articles. These findings speak to a broader literature on implications of targeted vs. universal policies, supporting those who point out that paradoxically, group-conscious or targeted policies may produce less equality than do group-neutral or universal policies (e.g., Wilson 1987 with respect to race; Brady and Bostic 2015 with respect to class).

To the extent discussion of policies/practices in HR trade journals positively correlates with their longer term diffusion among firms, Dobbin's (2009) more optimistic perspective on egalitarian implications of organizational mediation of anti-discrimination law may be warranted. Our research suggests the importance of law and policy *arena-specific* examination and comparison of HR discourse and organizational mediation processes, and of research assessing the impact of *firm-level* work-family policies/practices. Gaps in prior research meant we had to classify too many potential HR discourse-identified solutions as "impact unknown."

Policies and practices for which prior evidence for equality-producing impact is strongest—employer-subsidized day care, paid paternity, parental and maternity leave—are not discussed as potential solutions to employee caregiving issues nearly as often as flextime and flexplace. While evidence suggests that, in stark contrast to reduced hours and part-time work, the latter would increase gender and mother-other equality *if* women and mothers disproportionately used these programs, currently they do so at about the same rates as men and non-mothers. And flextime and flexplace are far more available to high income than low income employees (Weeden 2006).

Removing flextime and flexplace from the equality-producing category, business case articles discuss equality-producing policies/practices barely more than 1/3 of the time; the total number of articles discussing equality-producing policies/practices plummets from 120 (65% of the articles mentioning potential solutions) to 71 (39.5%). Even articles with diversity framing—now the most likely to include equality-producing solutions—do so just 43% of the time.

We draw two lessons from our results' strong sensitivity to classifying flextime and flexplace. First, we need more research building on Kelly and Kalev (2006) and Weeden (2006) to update the nature and impact of flextime and flexplace *at the firm level*. Second, both HR personnel and women's/caregivers' advocates should promote

employer and/or state subsidized child care as well as highly paid parental, including paternity, leave.

Workplace inequalities based on gender and caregiving result from combining status and normative discrimination based on descriptive and prescriptive stereotyping with non-discriminatory factors including foregone job experience, skill development, and labor market choices of women relative to men and mothers relative to others. But the latter as well as the former result from differential practical constraints and incentives by gender and parental status, *and* from gender and caregiving norms. Reducing family responsibilities discrimination and also the non-discriminatory reasons for motherhood and caregiving penalties requires structural and cultural interventions that can reshape both norms and incentives.

Widespread diffusion of well-paid *paternity* leave and proactive employer and co-worker encouragement for men to take paternity leave for longer periods may be especially important because this could promote the pragmatically- and normatively-influenced changes spurring a virtuous cycle of greater gender equality in the workplace *and* family. Currently most companies do not offer paid leave for new fathers and those that offer it provide on average about half the leave time available to mothers (Society for Human Resource Management 2016). This creates practical constraints and sends the wrong normative message: mothers' caregiving is more natural and valued than fathers'.

We need comparative research at the organization and workplace level to assess the nature and relative impact of cultural as well as structural initiatives. Given firm policies/practices shown to work to increase female and minority presence in management (Dobbin and Kalev 2016), we need research on processes and impacts of interventions to increase managerial and employee engagement in, support of, and accountability for, normative change enhancing work-life balance and workplace gender and parental status equality.

In addition to examining the impact of firm-level interventions on employee physical and mental health, productivity, job satisfaction and retention (see e.g., Perlow and Kelly 2014), we must evaluate equality impacts. Though it may not be easy to persuade employers, HR professionals should prioritize ongoing evaluation of the impact of work-family initiatives on gender and parental status inequalities. We need more experimental research such as that of Albiston et al (2016), that can assess whether and how descriptive and prescriptive stereotyping leading to discrimination in workplace outcomes can be reduced by firm-level voluntary strategies vs. state legislation.

That states and localities increasingly are enacting work-family legislation and that national-level child care and paid family leave legislation are on the agenda is positive. Because research shows that gender and caregiver discrimination occurs through descriptive and prescriptive stereotyping in response to take-up of work-family policies, as well as in these policies' absence, aggressive legal identification of, and enforcement against, FRD remains essential.

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Appendix

Table 7: All Policy/Practice Solutions by Motivating Frames*

Solutions	Motivational Frame				TOTAL
	Business	Accommodation	Diversity	Compliance	
equality-producing	82	58	13	10	117
paid parental leave	5	4	1	0	7
paid leave (reason unspecified)	4	4	1	0	7
paid maternity leave	1	1	0	0	3
paid paternity leave	2	1	0	0	2
unpaid paternity leave	2	1	0	0	2
paternity leave (pay unspecified)	1	0	1	0	1
flex time	49	35	7	6	68
flex place	31	20	5	4	39
compressed workweek	19	9	5	2	24
subsidize childcare	5	3	0	0	7
provide on-site childcare	18	15	3	1	23
subsidize eldercare	5	2	0	0	5
provide on-site eldercare	2	1	0	0	2

change culture to promote work-life balance	5	2	1	0	5
change culture to be more family friendly	7	6	0	0	9
change culture to better accommodate female caregivers	2	1	3	1	5
mentoring and support groups to promote general work-life balance	1	2	1	1	3
mentoring and support groups for caregivers	1	2	0	0	2
mentoring and support groups for female caregivers	2	2	1	0	2
inequality-reproducing	28	18	7	8	43
unpaid parental leave	3	1	1	0	4
part-time work	26	18	7	8	41
unpaid maternity leave	1	0	0	0	1
Impact unknown	75	52	12	14	120
bereavement leave	1	0	0	0	2
family leave	7	4	2	2	12
medical leave	3	1	0	6	7
parental leave (pay unspecified)	0	1	0	0	1
maternity leave (pay unspecified)	2	2	2	1	7
leave (reason and pay unspecified)	6	1	0	1	7
job sharing	19	11	5	2	24

select time	1	0	0	0	1
help employees find child-care	0	1	0	0	3
provide back-up childcare	2	0	0	1	4
let employees bring kids to work	2	1	0	0	2
help employees find elder-care	3	1	0	0	5
tuition support for employee's children	3	0	0	0	5
loans for unexpected family expenses, for example travel to funeral	1	0	0	0	1
flexible spending account to cover family expenses	3	3	0	0	5
long term care insurance	7	2	0	0	7
family relocation support	5	6	0	0	9
adoption benefits	7	5	1	1	11
mass career customization	3	3	1	0	4
lactation rooms and other lactation support	5	5	1	1	9
cafeteria with take-home meals	2	2	1	0	2
family picnics of other employees-sponsored family events	2	6	1	0	8
counseling, information, and referrals	27	19	2	2	35
TOTAL	147	123	28	53	243

*Numbers of each policy/practice solution associated with each frame refer to the number of articles that contain that frame and also that policy/practice solution. Some articles contain no policy/practice solution and some contain multiple policy/practice solutions. Some articles contain one frame only. Others contain multiple frames. Because articles containing any given policy often contained multiple policies, numbers for each *specific* policy in each classification category will *not* sum to the total number of articles in that category

Additional quotes illustrating explicit rejection of accommodation framing:

HR Magazine, June 1997, 105: This article pointed out that a particular company and its “work and family coordinator” chose to “downplay the need for employees to cite reasons for wanting to cut their hours” so as not to have to distinguish among “singles who want to take classes” and “parents who want more time with their children.”

Workforce, October 1998, 71: This article stated that “[t]o truly impact the work and personal lives of employees, organizations must stop viewing work/life benefits as an accommodation. Rather they should look at the benefits as strategic business initiatives that drive culture change throughout the organization.”

Additional quote illustrative of articles that are gendered but nonetheless reassert gender neutrality with specific respect to business case framing:

HR Magazine, October 2007, 37: This article, gendered at the article level, extolled the virtues of a particularly innovative firm with a seven day on, seven day off scheduling pattern. In doing so, it moved from accommodation to business case framing. It presents the gender neutrality of its mode of supporting employees’ needs as a key element of its business case framing of the program.

« We've created a self-functioning, stable team in which employees essentially get 26 free weeks a year to do with what they choose or need—take time with children...do volunteer work,” says Von Mad-

sen, assistant vice president, human resources manager. Along with its menu of equal and neutral employee benefits, the flexible-schedule policy has helped the 2,100-employee company reduce turnover from an industry average of 22 percent to about 14 percent, Madsen says. »

Association of Motivating Frames with Gendered vs. Gender Neutral Discussion: Results for Restricted Sample:

Restricting the sample to articles that contained one motivating frame only, *all* of the small number of articles employing only the diversity frame were gendered, 41% of articles employing the business case frame only were gendered, 42% of articles emphasizing the accommodation frame only were gendered, and 47% of articles containing the compliance frame only were gendered. Very similar to the unrestricted sample, in which articles with business case and accommodation framing were equally likely to be gendered, in the restricted sample, articles with business case and accommodation framing were *almost* equally likely to be gendered. Thus, as for the unrestricted sample, H5a is supported and—though accommodation and business case framing are no longer exactly equivalent in their likelihood of being gendered—the difference between 41% and 42% is so small that, once again, H5b cannot be said to be supported.

Additional Sensitivity Analyses for Results in Table 6: HR Mediation and Gender Equality

Because prior evidence suggesting the egalitarian impact of cultural change strategies was less strong than for many other policies and practices, we examined results for the association between the four motivational frames and discussion of equality-producing solutions with the three cultural change strategies in Table 7 removed from the

equality-producing category. *Doing so changed percentages reported in Table 6 very minimally, and the ordering remained exactly the same.* With cultural change strategies removed from the equality-producing category, articles with business case framing discussed equality-producing solutions 54% of the time, articles with accommodation framing did so 46% of the time, articles with diversity framing did so 43% of the time, and articles with compliance framing did so 19% of the time.

Association between Gendered Discourse and the Presence of Equality-Producing Solutions within Categories of Motivating Frames: Restricted Sample:

To check the robustness of our conclusion that gendered discourse was neither necessary nor sufficient for discussion of equality-producing solutions in HR trade journal discourse, we examined associations between gendered discourse and the presence of equality-producing solutions *within* the four types of motivational framing. To maximize potential variability among frames, we restricted the sample to those articles containing only one motivational frame. *Our conclusion holds with respect to this restricted sample.*

Articles containing the diversity frame *only* all were gendered, yet just 36% of these also contained equality-producing solutions. Within articles that contained *only* business case framing, a *greater* percentage of gender-neutral than of gendered articles discussed equality-producing solutions (60% vs. 54% using our standard coding equality-producing solution provided in Table 7). Though the opposite was true for articles that contained only accommodation framing or only compliance framing, the percentages of these frames that contained equality-producing solutions was less across both the gender-neutral and gendered categories (33% vs. 44% respectively for accommodation framing and 13% vs. 6% respectively for compliance framing). Almost as great a percentage of *gender-neutral*

accommodation frame articles discussed equality-producing solutions as was the case for *gendered* diversity articles (33% and 36% respectively).

Removing flextime and flexplace from the category of equality-producing solutions substantially diminished the number of such solutions associated with each motivational frame. Now, however, *gendered* and gender-neutral business case frame articles are *equally* likely to discuss equality producing solutions, and gender-neutral accommodation and compliance frame articles are *more* likely to discuss equality-producing solutions than are *gendered* accommodation and compliance frame articles.

ⁱThe ideal worker norm assumes employees are “unencumbered with full access to unpaid family labor” and so can adhere to rigid, full-time work schedules, and uniformly be available for overtime, “odd working hours,” travel and relocation (Hook 2010, p. 1485).

ⁱⁱCalifornia, New Jersey, Washington and Rhode Island offer paid family leave. Congress introduced but has not enacted legislation to provide paid leave (Albiston and O’Connor 2016).

ⁱⁱⁱAffirmative action plans, diversity task forces and committees, and diversity departments and managers are most effective, diversity training and evaluations are ineffective or counterproductive, and networking and mentoring have small egalitarian effects (Kalev et al 2006). Research suggests the impact of employment discrimination enforcement is variable, stemming in part from the regulatory environment’s stringency and uncertainty (Donahue and Heckman 1991; Kalev and Dobbin 2006; Stainback and Tomaskovic-Devey 2012). Below, we discuss how such stringency and uncertainty may relate to variability in HR framing.

^{iv} Motherhood wage penalties and fatherhood wage premiums vary across income. The highest paid mothers are not penalized (Budig and Hodges 2010; Budig 2014; Glauber 2008).

^vGender segregation of jobs, public sector jobs, hazardous work, and work autonomy have almost no impact on the motherhood penalty’s size (Budig and Hodges 2010).

^{vi}Armenia and Gerstel (2006) found that men approached women in likelihood of taking leave for very ill parents and children; men of color were not less likely to take family leave than women.

^{vii}Success varied depending on the policy. Responses to a 1997 survey of 389 employers show that 96% offered maternity leave and 86% paternity leave; just 15% and 7% offered paid maternity and paternity leave respectively (Kelly 1999). Fifty-six percent of responding firms offered flexible spending accounts for dependent care; 35% had flextime (Kelly 1999).

^{viii}Weeden (2006) controlled for wage-associated demographic and occupational factors while excluding between occupation differences.

^{ix}*HR Magazine* has circulation of 200,000 and *Workforce*, 60,000.

^xTo avoid confusion, we use the titles *HR Magazine* and *Workforce* throughout.

^{xi}In *HR Magazine*, pre-1991, we could only search abstracts. We could get full text of relevant articles found searching abstracts. So although we can analyze some articles in *HR Magazine* pre-1991, we cannot be certain there are no other relevant articles that would have been found had we been able to search full texts. This makes it hard to meaningfully interpret the number of relevant *HR Magazine* articles found pre-1991. We must use great caution in comparing pre- and post-1991 article incidence in this publication. We *can*, however, get some sense of where FRD-relevant discussion was pre-1991. Because this was well before FRD entered HR awareness, we are confident that we captured the most active part of *HR Magazine*’s discussion.

^{xii}We did not distinguish between shorter vs. longer policy discussions, nor whether a policy/practice was mentioned one or multiple times in an article.

^{xiii}Pre-ACA, many legal experts argued that a right to lactation should be encompassed by evolving interpretation of the 1978 Pregnancy Discrimination Act. Many courts were not friendly, but some ruled that allowing employees breaks for reasons other than lactation but refusing women breaks to lactate constituted Title VII sex discrimination. Some lactation-related causes of action were brought based on Title VII and the ACA (*EEOC Enforcement Guidance on Pregnancy Discrimination and Related Issues*, June 25, 2015).

^{xiv}Our periodization may be too crude to capture how change in uncertainty and/or levels of legal threat shape HR framing. In analyses not presented, we tried finer time breakdowns, including yearly, to examine potential impact of events including the 2004 *Back* ruling and the 2007 *EEOC Guidance*. We found spikes in compliance framing in 2005 and 2009, following closely, respectively, on the heels of *Back* and the *EEOC Guidance*. But data sparsity prevents inference from the yearly findings.

^{xv}Many articles discussed multiple policies/practices, so articles discussing equality-producing solutions might also discuss solutions with unknown impact or solutions that prior research suggests reproduce inequality. Some articles employing one or more motivating frames discussed no policies/practices at all.

^{xvi}The total number of articles containing equality-producing policies/practices that do *not* also contain at least one inequality-reproducing solution is 86—48% of the total number of articles offering potential solutions.



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