

BREAKING UP IS HARD TO DO: COMMENTS ON MARTHA FINEMAN'S CRACKING THE FOUNDATIONAL MYTHS: INDEPENDENCE, AUTONOMY, AND SELF-SUFFICIENCY

SUZANNA DANUTA WALTERS*

Nothing evokes emotion like the term “family.” Dan Quayle raised the fraught term to new heights (or lows, depending on where you stand) during the 1992 Presidential election.¹ His tirade against television sitcom character Murphy Brown’s single motherhood reflected one moment in a larger campaign to make “family values” the new litmus test for political viability.² Like so many sound bites, this one encoded much as it worked its way through the cultural landscape. Clearly, and most explicitly, Quayle’s attack on single mothers reserved special venom for those “feminist” single mothers by choice (Murphy) and “dependent” poor, black, teenage, single mothers.³ Thus, the term “family values” vilified those who challenged—either directly or indirectly—the dominance and desirability of the father-headed, nuclear family.

Not coincidentally, the “family values” debate emerged in the context of growing discussion and examination of the multiplicity of family forms. In an era when both the feminist and the gay movements have challenged the centrality of the heterosexual

* Department of Sociology, Georgetown University.

1. See John E. Yang, *Clinton Finds New Voice of Emotion; Quayle Decries Poverty of Values; Vice President Urges Firm Hand in Cities*, WASH. POST, May 20, 1992, at A1 (arguing for the reinforcement of family values, “hard work, integrity, [and] personal responsibility”).

2. See *id.* at A1 (quoting Dan Quayle, “It doesn’t help matters when prime-time TV has Murphy Brown—a character who supposedly epitomizes today’s intelligent, highly paid, professional woman—mocking the importance of fathers by bearing a child alone and calling it just another lifestyle choice”).

3. See *id.* at A1 (stressing the importance of male role models in the home and declaring marriage as “the best anti-poverty program”). In a meeting with a dozen tenants—all of whom were black women—at the Hunter’s View housing development in southeastern San Francisco, Quayle voiced his concern of lack of males at the meeting. *Id.*

nuclear family and its desirability⁴ (by the ongoing revelations of child abuse, incest, wife battering, etc., as well as through the exposure of more mundane forms of inequity and domination), the phrase "family values" emerged as the catch-all term that attempted to set up a great and impenetrable dividing line between "us" and "them." "Family values," however, was not only restricted to its obvious anti-feminist manifestations; it also became a code word for a much more broad-based attack on family diversity and individual self-expression.⁵ The deeming of gays and lesbians as "anti-family" is nothing new in the history of homophobia.⁶ Indeed, both religious and non-religious justifications for discrimination have often been premised on the assumption that lesbian and gay "lifestyles" threaten the sanctity of the nuclear family by proposing and practicing sexual conduct not centered on reproduction.⁷ In addition, heterosexual fears of gay "recruitment" ("they want our children") have always been used to whip up anti-gay hysteria.⁸ Consequently, the Defense of Marriage Act⁹ became the medium through which right-wing "family

4. Compare *National Pro-Family Coalition on the White House Conference on Families*, in NATIONAL ORGANIZATIONS RESOURCE BOOK (1981) (proposing that a family consists solely of "persons who are related by blood, [heterosexual] marriage or adoption"), with Rebecca Melton, Note, *Legal Rights of Unmarried Heterosexual and Homosexual Couples and Evolving Definitions of "Family"*, 29 J. FAM. L. 497, 499-500 (1991) (exploring changing social patterns that alter the traditional definition of "family").

5. See generally Gary B. Melton, *The Significance of Law in Everyday Lives of Children and Families*, 22 GA. L. REV. 851, 884-86 (1988) (discussing family values and diverse family structures).

6. See Craig W. Christensen, *If Not Marriage? On Securing Gay and Lesbian Family Values by a "Simulacrum of Marriage"*, 66 FORDHAM L. REV. 1699, 1719 (discussing how social conservatives perceive gay and lesbian family values as antithetical to the family institution).

7. See *Bowers v. Hardwick*, 478 U.S. 186, 196 (1986) (Burger, C.J., concurring) (commenting on the "ancient roots" of proscriptions against sodomy).

Condemnation of [homosexual conduct] is firmly rooted in Judeo-Christian moral and ethical standards . . . Blackstone described "the infamous crime against nature" as an offense of "deeper malignity" than rape, a heinous act "the very mention of which is a disgrace to human nature," and "a crime not fit to be named" . . . To hold that the act of homosexual sodomy is somehow protected as a fundamental right would be to cast aside millennia of moral teaching.

Id. at 196-97. But see *id.* at 199-211 (Blackmun, J., dissenting) ("If [privacy] means anything, it means that, before Georgia can prosecute its citizens for making choices about the most intimate aspects of their lives, it must do more than assert that the choice they have made is an 'abominable crime not fit to be named among Christians.'" (quoting *Herring v. State*, 46 S.E. 876, 882 (Ga. 1904))).

8. See Recent Development, *H. Utah Senate Bill 1003 Prohibiting Specified School Clubs*, 23 J. CONTEMP. L. 268, 273 (1997) (describing the fears of Utah legislators that the formation of gay clubs would promote and recruit impressionable and "wavering children").

9. See Defense of Marriage Act of 1996, Pub. L. No. 104-199, § 2, 110 Stat. 2419 (codified at 28 U.S.C. § 1738C) (clarifying that the Full Faith and Credit Clause of the Constitution does not require that same-sex marriages be recognized by other states and defining marriage for purposes of federal law as the union of one man and one woman).

values" were expressed.¹⁰

No arena of social policy deserves more attention from the astute mind of feminist legal theorist Martha Albertson Fineman than our increasingly vexed and anti-feminist policies around issues of family and dependent care. Our adamant refusal to provide even a modicum of social support to care for the dependent and their caretakers does little to strengthen the relationship between the state and family. The abysmal state of American day care illustrates governmental neglect of the welfare of children.¹¹ Government has instead relegated the care of children to unsupported (largely female) individuals who are expected to provide this care within the confines of a privatized family.¹²

The emergence of the "family values" debate iterates the relentless theme of American individualism, an individualism in which privileged (largely white) males get the freedom to be individuals (e.g., those putative free agents unfettered by dependent care) by relying on the unremunerated, unacknowledged, and devalued labor of "individuals" (largely women) who are expected to provide this work and to receive the "unintended consequences" (limited job mobility, lower wages, social diminution, poverty) with equanimity. Those on the left (including feminists), however, have only timidly countered the family values discourse. Those on the right have chimed in to concur with Quayle, bemoaning the sorry state of family life in the United States while attempting to put a kinder, gentler face on patriarchal familism.¹³ Others have toed a more discrete liberal line, arguing for "family diversity" and taking issue with the tenor of the attacks and the definitional frameworks (e.g., how we define "good" families), rather than the deeper ideological structure of the argument.¹⁴ I remember a wonderful conversation with a feminist

10. See Anna Dubrovsky, *Same-Sex Marriage: A Struggle for Equal Rights*, PITTSBURGH POST-GAZETTE, Sept. 10, 1996, at A1 (describing the debates sponsored by Pennsylvania's State Representative C. Allan Egolf over the Defense of Marriage Act and declaring that same-sex marriages are "repugnant to traditional family values").

11. See *Brief Analysis No. 248: Day Care: Children vs. Government* (visited Oct. 6, 1999) <<http://www.public-policy.org/~ncpa/ba/ba248.html>> (indicating that state and local regulation of daycare facilities has reduced the supply of family daycare homes).

12. See Peter Pitegoff & Lauren Breen, *Child Care Policy and the Welfare Reform Act*, 6-WTR J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 113, 115 (1997) (finding that the elimination of AFDC entitlement for poor families will result in the loss of federal entitlement to child care support for families on welfare, thus creating a gap which states will either fill or leave many low-income families without adequate child support).

13. See Barbara Dafoe Whitehead, *Dan Quayle Was Right*, THE ATLANTIC, Apr. 1, 1993, at 47 (arguing that diverse family forms harm children and undermine society).

14. See Shoshana Bricklin, *Legislative Approaches to Support Family Diversity*, 7 TEMP. POL. & CIV. RTS. L. REV. 379, 380 (1998) (discussing various legislative campaigns in support of family diversity rights).

theorist and cultural critic—herself a central figure in the 1960's radical feminism movement—in which we both expressed our desires to articulate a more “in your face” position on “family values.” She argued, and I concurred, that feminists should proudly claim our contributions to the destruction of the patriarchal nuclear family instead of meekly arguing the “diverse” family line.

So it was with great anticipation that I approached Martha Albertson Fineman's, *Cracking the Foundational Myths: Independence, Autonomy, and Self-Sufficiency*,¹⁵ primed as I was by both an admiration for its author and a desire to radically rethink family/social life. Fineman's work has always been compelling both for the detail it offers into the variegated relations between state, civil society, gender, and family and for the freshness with which it offers challenges to those very relations. In her ground-breaking and controversial book, *The Neutered Mother*,¹⁶ Fineman provocatively argued for the disassociation of parenting with partnering and pointed out the deleterious effects of a conflation of these two.¹⁷ In this book, she claims that what should be socially valued and socially supported are relations of inevitable and real dependency (that between parent and child, or the ill and their caretakers)¹⁸ and that our social supports should provide real and substantive resources for the necessary and inevitable act of caretaking, not for the supposed union of two nondependent adults (marriage).¹⁹ As a gay activist and scholar, I am drawn to Fineman's critique of the “sexual family” and her argument that the conflation of parenting and partnering lies at the heart of mutually determining inequities within gendered institutions such as the family and the state.²⁰

In *Cracking the Foundational Myths: Independence, Autonomy, and Self-Sufficiency*, Fineman continues with the line of thought developed in *The Neutered Mother*, but perhaps for a different audience. While *The Neutered Mother* spoke eloquently to feminist social and legal theorists, this piece is of a different nature, less emboldened to make large and

15. Martha Albertson Fineman, *Cracking the Foundational Myths: Independence, Autonomy, and Self-Sufficiency*, 8 AM. U. J. GENDER, SOC. POL'Y & L. 13 (2000).

16. MARTHA ALBERTSON FINEMAN, *THE NEUTERED MOTHER, THE SEXUAL FAMILY AND OTHER TWENTIETH CENTURY TRAGEDIES* (1995).

17. See *id.* at 227-31 (describing a new legal category of family centered on dependency that would be protected and preferred by the state).

18. See *id.* at 227-28 (calling the notion of the natural family a failure for failing to balance “the demands for equality and the contemporary manifestations of . . . dependency”).

19. See *id.* at 228-30 (arguing for the dissolution of marriage as a legal category and the equalization of all sexual relationships).

20. See *id.* at 145-66 (elaborating on society's assumption of a sexual family, which stands as an institution of “horizontal” intimacy based on romantic heterosexual affiliations).

radical claims and more eager to avoid antagonisms than take on the Right. Here, I think she intends to find a way to push along the dialogue, to insert feminist legal theory into the truncated discourse on family and state. Too often, legal scholars and feminist academics find it difficult to make the connections between their important insights into power and its manifestations in policy decisions and the minutiae of everyday life. To her credit, Fineman eagerly redresses this problem and uses her legal and intellectual skills to make policy suggestions, and intervenes in the process of constructing "common sense" ways of thinking. This is all to the good. As a scholar who yearns for the growth of a cadre of public intellectuals, I am pleased to see her take this step.

This foray into public discourse, however, makes her piece seem rather obvious, thus breaking little new ground. Fineman's thesis is simply not innovative enough.²¹ She focuses on dependency, and the ways in which most mainstream accounts forego substantive discussion of dependency by treating the family as "separate, governed by an independent set of expectations and rules."²² Many others (particularly, sociologists Mary McIntosh and Michelle Barrett in the classic socialist-feminist critique *The Anti-Social Family*)²³ have made the vital point that the family acts as an "anti-social" institution in which all of the social problems of dependency—nurture, intimacy, and emotionality—are foisted upon isolated nuclear families and the women who are expected to serve them.²⁴ Such a principle denudes the public sphere of those "familial" values and creates a bifurcated social world in which the family stands alone as a haven where values of care, nurture, and dependency are separable from civil society and the state. Like Barrett and McIntosh, Fineman seeks to unpack the relations between state, family, dependency, and autonomy.²⁵

Fineman correctly points out that our particular (and dangerous) understandings of the family rely on particular visions of the individual and our understanding of what the state is and to whom it

21. This in itself is not problematic. Innovation need not be a criterion for validity in theorizing. What matters, I suppose, is what she does with this thesis and how she articulates new responses.

22. Fineman, *supra* note 15, at 13.

23. MARY MCINTOSH & MICHELLE BARRETT, *THE ANTI-SOCIAL FAMILY* (1982).

24. *See id.* at 85 (discussing how the nuclear family is an anomaly in western civilization, and how it fits the functions and needs of the capitalistic mode of production).

25. *See* Fineman, *supra* note 15, at 21 (asserting that the state should ensure that market institutions respond more positively to burdens of dependence, such as those encumbered by workers with dual responsibilities).

is responsible.²⁶ These understandings, however, are hidden backdrops because we idealize family as a separable private space. This "assumed family" "distorts analysis and policy" because not only is it hidden from view, its responsibilities for nurture and dependency fall inordinately on the shoulders of women.²⁷

Fineman takes the feminist and left maxim of collective responsibility into the heart of family and social policy. What does it really mean, she asks, to have collective responsibility for individuals (indeed, large classes of people such as children) who live in structured and inevitable conditions of dependence?²⁸ The answer comes down to social supports and the *rights* one does or does not have to those supports.²⁹ Fineman is right on the money when she points out that "we all live subsidized lives."³⁰ From state supports to farmers,³¹ to breaks for corporate relocations,³² to the vicissitudes of our complex tax system,³³ we are all in various ways supported—directly and indirectly—by a government that deems certain groups and identities worthy of support (e.g., farmers) and others unworthy (e.g., women caring for children).³⁴

For years, feminists have debated and deconstructed the notions of "autonomy" and how it constructs a particularly gendered and limited sense of the independent "self."³⁵ From the work of Carol

26. See Fineman, *supra* note 15, at 13 (stating that theorists who focus on the individual appear to neglect the significance of the family institution in their work).

27. See Fineman, *supra* note 15, at 14 (describing the "assumed family" concept as a "specific ideological construct with a particular population and a gendered form that enables us to privatize individual dependency").

28. See Fineman, *supra* note 15, at 18 (asserting that inevitable dependency necessitates collective or societal concern).

29. See generally Joel F. Handler, "Constructing the Political Spectacle": *The Interpretation of Entitlements, Legalization, and Obligations in Social Welfare History*, 56 BROOK. L. REV. 899, 905 (1990) (showing that "social rights" to programs, such as Social Security insurance, illustrates the distinction between needs and entitlements).

30. See Fineman, *supra* note 15, at 22 (contending that no one lives self-sufficiently in modern society).

31. See Richard F. Prim, *Minnesota's Anti-Corporate Farm Statute Revisited: Competing Visions in Agriculture, and the Legislature's Recent Attempt to Empower Minnesota Livestock Farmers*, 18 HAMLINE L. REV. 431, 433-35 (1995) (discussing the implication's of Minnesota's anti-corporate farm statute, which forbade corporate entities from owning corporate land and from "engaging in farming"). The statute presumably preserved family farms. *Id.*

32. See Mark Taylor, Note, *A Proposal to Prohibit Industrial Relocation Subsidies*, 72 TEX. L. REV. 669, 671-77 (1994) (discussing the history of industrial relocation subsidies).

33. See Daniel Shavero, *Beyond Public Choice and Public Interest: A Study of the Legislative Process as Illustrated by Tax Legislation in the 1980s*, 139 U. PA. L. REV. 1, 6-7 (1990) (discussing the public interest theory and economic theory with regard to tax legislation).

34. See Gary A. Winters, Note, *Unconstitutional Conditions as "Nonsubsidies": When is Deference Inappropriate?*, 80 GEO. L.J. 131, 132 (1991) (examining whether government allocation schemes affect constitutional rights).

35. See generally CAROL GILLIGAN, *IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY &*

Gilligan and others, debate has raged over the relative merits of challenging the notion of the autonomous self as a particularly male construct of individualism.³⁶ That construct rests on the assumption of a more “relational” female self that does the emotional and physical work of caretaking—work that allows the very concept of an autonomous self to emerge as “natural.”³⁷ While Fineman does not invoke this work and this debate directly, it is clearly part of the backdrop. Yet her attempts to challenge our limited notions of autonomy, independence, dependency, and need are strangely hollow. For Fineman, “[i]ndependence is gained when an individual has the basic resources that enable her or him to act consistent with the tasks and expectations imposed by the society.”³⁸ This principle not only weakens the case for independence,³⁹ but falls dangerously close to a separate but equal framework. I know Fineman has no desire to construct a rubric whereby women who are “assigned [the] vital societal function”⁴⁰ of caretaking are simply better provided for by a more active state. Indeed, she indicates elsewhere a real desire to challenge the privatization of childcare and the location of that care in the hands of isolated women.⁴¹ Although she argues that financial redistribution is not the whole picture,⁴² she lends herself to that very possibility by relying on such limited visions and such timid propositions.

Fineman does, however, develop some innovations, particularly around the concept of derivative dependency.⁴³ With this concept, she argues that relations of dependency are not only *inevitable*, but also those who care for the dependent, become *themselves* dependent

WOMEN'S DEVELOPMENT 128-29 (1982) (analyzing how women generally describe themselves, and how conceptions of morality and the self act in situations of conflict and choice).

36. See *id.* at 128 (noting the different modes of reasoning and ethical decisions employed by men and women).

37. See *id.* at 7-8 (attributing the differences in the development of the male and female self-concepts “not to autonomy but rather to ‘the fact that women, universally, are responsible for early child care.’”).

38. Fineman, *supra* note 15, at 25.

39. Couldn't independence also be about our understanding of our inevitable relations with others, our mutually constitutive identities?

40. Fineman, *supra* note 15, at 26.

41. See Fineman, *supra* note 15, at 25 (questioning whether society can continue to have a traditional family model, given the continuous increase in divorce rates and women expecting to be wage earners, wives, and mothers).

42. See Fineman, *supra* note 15, at 25 (suggesting other important questions, in addition to those involving redistribution, that would have been discussed had there been a public forum).

43. See Fineman, *supra* note 15, at 20 (describing derivative dependency as arising on the “person who assumes responsibility for the care of the inevitable dependent person”).

on the resources necessary for that care.⁴⁴ She correctly asserts that derivative dependency distributes inequitably around gender and that the individual caretaker bears the responsibility and burden of that caretaking, thus allowing others (institutions and individuals) off the hook, both relationally and economically.⁴⁵ But like so much of her argument, Fineman leaves it at that.

I must say that I found this a tough piece to write about. While I am wholly sympathetic to Fineman's core arguments, I found her piece curiously deficient. I felt it lacked a deep and substantive engagement with the ideological conditions and social benefits that enact this alchemy that transforms the social family into the privatized family of female responsibility. The weakness of Fineman's suggestions, such as a sort of national dialogue à la Clinton's "initiative on race,"⁴⁶ reveals an inability to reckon with the ideological work of the "family values" debate, and the very real benefits to a particular class of social actors in maintaining the fictional binarism of independence/dependence. The dialogue strategy has always seemed fundamentally weak, precisely because of the deep liberalism at its core.⁴⁷ The "can't we all just get along" mixture of Habermasian "ideal speech" (in some utopian civil society) with communitarian fictions of shared values, ignores the very real and material questions of power, privilege, interest, and ideology.⁴⁸ This reminds me of the folks who believe there is "common ground" to be found between anti-abortionists blocking clinic access and those of us who believe a woman has a right and responsibility to control her own reproductive life.⁴⁹ While I am all for discourse, I cannot abide by the dangerous fictions that assume that the reactionary Christian Right are just befuddled folks who want

44. See Fineman, *supra* note 15, at 20 (stating that "[c]aretakers have a need for monetary and material resources").

45. See Fineman, *supra* note 15, at 21 (arguing that societal institutions assign its members scripts rooted in ideologies, which focus on individual choice and avoid general responsibility for caretaking roles).

46. See Fineman, *supra* note 15, at 24 (referring to President Clinton's initiation of a Commission which had the responsibility of organizing public discussions on racial concerns).

47. See Fineman, *supra* note 15, at 24 (suggesting a national dialogue on dependency to improve the effects of welfare reform).

48. See JURGEN HABERMAS, *MORAL CONSCIOUSNESS AND COMMUNICATIVE ACTION* 202 (1990) (stating that "[d]iscourse or argumentation is a more exacting type of communication[It] generalizes, abstracts, and stretches the presuppositions of context-bound communicative actions by extending their range to include competent subjects beyond the provincial limits of their own particular form of life").

49. See generally Peggy Hau, *The Politics of Law, Language, & Morality: Thucydides & the Abortion Debate*, 8 S. CAL. INTERDISC. L.J. 711, 740-41 (1999) (discussing various viewpoints shared by both anti-abortion and abortion-rights advocates).

the best for all. There are real investments people have in certain conceptions of family and of women's responsibility for caretaking that are both ideologically salient and materially beneficial. Fineman's idea that a public forum would provide "nonpartisan" discussion in a "depoliticized" manner⁵⁰ is both illusory and self-defeating. What is nonpartisan? Is that a place where no one has beliefs and values and identities they hold dear? This always seems to me the emptiest sort of language, analogous to the scientists who still cling to some idea of objectivity and non-bias. The problem is not that it is political, but that one group has been allowed to put the stamp of *its* (anti-feminist, anti-gay, racist) politics on the debate, while keeping *ours* marginalized and demonized. We need *more* political talk about families, more like Fineman's feminist, left maxim critique.

Another area that illustrates Fineman's reluctance to take a more radical stance vis-à-vis the Right's attack on feminism (via the single mother) concerns her insistence that we base the argument for social responsibility for dependency on the universal "truth" of biological dependence.⁵¹ By relying on this paradigm, the model of parent-child becomes overly paradigmatic and restricted to a more thoroughgoing debate about a just society. We need to make arguments for a collective responsibility that does not rely on a "bedrock" of the infantile body. Her reliance on this universal biological reality limits her ability to radically re-orient our thinking on the family. Indeed, one could imagine a slightly more just social order, which would acknowledge the inevitable biological dependency of the child and provide a richer and more abundant array of social services to compensate and aid the caretaker. Surely, that scenario need not necessarily alter our sense of who is responsible for the daily work of caretaking. In addition, it states nothing about the need to go beyond redistributive justice and to think our way out of and beyond the limits of familialism, to envision ways of nurturing and loving that are not bound by familial lines. Granted, caretakers must be better provided for and must not find themselves at a professional and social disadvantage because they do the socially necessary labor that allows society itself to exist. I am all for basic income guarantees and the Democratic Socialism 101 that

50. See Fineman, *supra* note 15, at 24 (suggesting that society could have obtained "thoughtful, informative, and depoliticized" discussions about implications of dependency if President Clinton had employed a mechanism similar to his initiative on race to welfare reform).

51. See Fineman, *supra* note 15, at 18 (stating that "inevitable dependenc[ies]" are biological in nature).

Fineman offers. But isn't it time to think a bit more utopically?—To really take on the kinds of sexist and racist tropes propagated by the right? Tropes they are, and here is where Fineman fails to see the forest for the trees. To engage in a debate around the family, one must reckon with the discursive war (in television, in film, in popular journalism, in advertising, in government rhetoric, and in sound-bites) that allows a patently ridiculous phrase like "family values" to be treated as the legitimate staging ground for substantive meaning production.

As a lesbian single mother by choice, I know all too well the effects of privatization and reliance on reluctant social supports. Financially stable and free from the vindictive web of welfare services, I have avoided much of the deleterious effects that many women in less fortunate circumstances find themselves. Even as I mull over my own (privileged) situation, however, I cannot help but worry that the solutions offered by Fineman fall far short of the kind of radical restructuring that needs to take place.⁵² Simply put, a redistributive mechanism is not enough and may provide a circuitous way for male privilege to continue unabated, as current socially supported female caretakers become more and more mired in domesticity. This was the argument made long ago against the intriguing idea of "wages for housework."⁵³ Allowing women to be better-paid caretakers seems a poor substitute for implementing socialized childcare. You could not pay me a million bucks to stay home all day with my kid, as much as I dearly adore her. Granted, if my option was a dead-end job with no hope of advancement, being a well-paid mom might not look so bad. We need to discuss, however, the relationship between not simply the family and state, but also between family and work. I think we need to thoroughly rethink our system of individual parental childcare rather than make it more affordable. We need to do this not only for the desired goal of truly socializing the responsibility for children (and I am surprised how little she says here about the need for affordable, quality, accessible childcare), but because adults need adult engagement and meaningful work.

52. Of course, it goes without saying that her assumption of heterosexuality is problematic. Her argument rests on a resolutely heterosexist presentation of existing structures. Certainly these are dominant, but it would have helped her argument to counterpose the (mystifying) discourse of family (that has little to do with evolving structures that are often multigenerational and nonfamilial) with the lived relations of alternative structures.

53. See generally Katharine Silbaugh, *Turning Labor Into Love: Housework and the Law*, 91 NW. U. L. REV. 1, 24 (1996) (discussing the Cooperative Housekeeping movement, which allowed women's housework to be subjected to the same modernization and efficiencies as men's work in a capitalist economy).

I am not one of those feminists who think the movement is all about “choice.” I do not think Fineman is either. I think that the privatized, nuclear family is a health hazard and a social calamity, particularly for women and children. Fineman correctly states that we need to crack the foundational myths that mystify the ways in which caretaking labor supports the entire social order. We need to hold those who benefit from this unacknowledged labor economically and socially accountable. To do so, however, requires more than cracking the foundations. We need to smash ‘em.

