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## Panel Two: Who's Minding the Baby?

UNBENDING GENDER: WHY FAMILY AND WORK  
CONFLICT AND WHAT TO DO ABOUT IT

PANEL TWO: WHO'S MINDING THE BABY?

Washington, D.C.  
Friday, November 19, 1999

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## P R O C E E D I N G S

PROFESSOR WILLIAMS: I am going to say a few brief words to introduce some of the themes of this panel. Then we will hear from the panel. We're very excited to have them here.

I did want to start out the afternoon by just saying how honored I am to be co-directing this project with my colleague Adrienne Davis. She's really devoted an incredible amount of time to this project. Her work on the economic meanings of gender and race in the pre-Civil War and post-Civil War period provides an incredibly important set, not only of historical insights, but theoretical insights that I think are critically important for pursuing this project in the present day. So I want to tell her "Thank you."

PROFESSOR DAVIS: Thank you. We have a quite nice mutual admiration society.

PROFESSOR WILLIAMS: I think again I will stand here and sort of hover over Jamie in order that I can see both the panel and the audience. Is that all right?

SPEAKER: That's fine.

PROFESSOR WILLIAMS: A central characteristic of our current gender arrangements is that they pit ideal worker women against marginalized caregiver women in a series of patterned conflicts I call gender wars.

One version of these are the mommy wars that we see often covered in the press between employed mothers and mothers at home. Employed mothers at times participate in the belittlement commonly felt by homemakers. Also mothers at home, I think, at times participate in the guilt-tripping that's often felt by mothers who are employed.

These gender wars are a central but little understood characteristic of the gender system that grew up after 1780, which historians call "domesticity."

One of the basic arguments in the book is that gender has proved unbending in the sense that we've progressed from the original form of domesticity, the breadwinner/housewife version, to the contemporary form of domesticity, the ideal worker-marginalized caregiver system. This modern form is what I sometimes call an attempt again to invent a language that is widely accessible, the "dominant domestic ecology." I found that if you call it the sex-gender system, people feel somewhat differently than if you call it the dominant family ecology.

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The important point is that these gender wars, which are an inherent characteristic of domesticity, are seriously undertheorized by feminist theorists. I think they're really important, because they go to the core of building an effective coalition for gender change with respect to this work-family axis, these economic meanings of gender that Adrienne and I are focusing on.

The classic strategy of American feminists has been that women should achieve equality by performing as ideal workers along with the men, with child care delegated to the market. I call this the "full-commodification model," until Adrienne came up with a far better name. She calls it the "delegation model." So I'll call it the delegation model.

The first problem with this model is that it enshrines the full-time worker as an ideal. I propose to defend women's right to work in patterns that are more consistent with their gender traditions—traditions, of course, in which caretaking plays a very central role. The goal is to delink those traditionally feminine patterns of work from the marginalization and exploitation that still accompany them, as people so eloquently pointed out this morning.

But I also think—and we focused mostly on paid work this morning—that it's extremely important to link an agenda that's focused on restructuring paid work with a strategy that's designed to help marginalized care-givers. What I have focused on, being a lawyer, is the agenda of restructuring divorce law by redefining who owns what within the family.

The family side also begins with the initial ideal worker analysis. Note that a man cannot perform as an ideal worker without that flow of family work from his wife, which means that the wages of the family, and indeed the wage of the ideal worker himself, reflects not only the paid work of the ideal worker in the marketplace, but also the family work of the primary caregiver in the home.

Well, you would think, just based on very intuitive property theory, that when you have two family members who are jointly producing a family asset, it doesn't make sense to award ownership unilaterally to only one of them, which, of course, is what divorce courts do when they say, "We're going to treat everyone equally now. The ideal worker gets his 70 percent of the family income wage and the marginalized caregiver gets her 30 percent of the family wage."

So mothers are marginalized by two successive applications of the ideal-worker norm. The first is in market work, but the second is in the divorce courts. Mothers first marginalize from work in order to care for children, and then the divorce courts erase the mother's role

in producing the ideal-worker's wage. The result is that nearly forty percent of divorced mothers—and their children—end up poor. This is about two and one-half times the national poverty rate. Many of the mothers who end up poor were middle class when they were married.

Linking these two agendas is controversial in ways that will come out this afternoon. But linking them is important, because it strengthens both of them, and holds the potential to bridge the gap between ideal worker women and caregiver women.

The shift away from this delegation model, the idea that the path to equality lies in having women perform as ideal workers along with the men and delegating child care to the market—is important, first, because the delegation model produces gender wars between ideal worker women and marginalized caregiver women—and indeed, among women all along that continuum, since those are not two discrete groups. This shift also is important because those gender wars quickly take on elements of race and class conflict.

Before I talk about them, let me just add one additional piece, which is an extremely important piece that American feminists often forget. When Betty Friedan wrote in the '60s,<sup>1</sup> she assumed that very soon there would be a national system of subsidized child care centers that would be as free, accessible, and high in quality as public libraries.<sup>2</sup> She actually believed this. Not only did she believe this, it was not an implausible vision. After all, that is what has happened in Belgium. That's what happened in France.<sup>3</sup> Ninety-five percent of nursery school age children in those countries are in government-subsidized child care.<sup>4</sup>

But it did not happen in this country. Consequently, delegation to the market in this country, which was originally conceived of to involve some degree of social subsidy, now becomes delegation to a largely unsubsidized market in which child care workers are among the lowest-paid workers in the society. They also have extremely high rates of turnover, which is not good because children need continuity of care.

The result is a delegation model that is not likely to appeal to

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1. See BETTY FRIEDAN, *THE FEMININE MYSTIQUE* (1963).

2. See *id.*

3. See Nancy E. Dowd, *Envisioning Work, and Family: A Critical Perspective on International Models*, 26 Harv. J. Legis. 311, 334 (1989) (explaining that child care for the very young in France is subsidized by municipalities).

4. See BARBARA R. BERGMANN, *SAVING OUR CHILDREN FROM POVERTY: WHAT THE UNITED STATES CAN LEARN FROM FRANCE* 27-79 (1996) (estimating that 95% of nursery school age children are in publicly subsidized child care programs).

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nonprivileged people, because in this social context, delegation means that working-class people, who a generation ago had access to the same kind of mothercare that middle-class people had, today have only market child care that reflects their disadvantaged class position. If you read, as many of us do, descriptions of the child care available to poor and working class women, they are often harrowing.

I always say that the market—since I live in the arena of legal economics where economics is so important—the market does deliver many things efficiently. Racism and sexism are two of them.

Market child care also may not appeal to many people of color regardless of the level of subsidy available, because they often feel that their children—quite justifiably, will experience the kind of racism in the market that they themselves experience in the market every day.

Market child care may not be appealing also to the extent that there is a vital and, I think, very precious tradition—one of the few American traditions—of highly valuing family work, both among people of color and among working-class people (overlapping groups, of course) because of the sense that the family provides a haven respectively from the racism or the class disenfranchisement that those groups face outside.

So the implicit belittlement of the importance of family work that is behind this delegation model, I think, has a note of dissonance to non-privileged people for that reason as well. They have very precious traditions about how family work is valuable, and is profoundly important political work, which in many ways, I sometimes feel that the privileged white community is the worst role model we have in that regard.

So the negative imagery of family work, I think, is very often off-putting to a large range of American women, and indeed, American men. I think the positive imagery of market work is also off-putting, because—although, after all, for a woman of my position, my alternatives are a career that is highly valued where I receive a high salary, status, and respect—the alternative is to have access to that blocked by my relegation—note the word—to devalued family work, that really shows my privileged class position. If I were a working class woman, where I had basically the alternatives—or, much less, a poor woman, where my alternatives were sexual harassment working at McDonald's or staying at home, you can readily see how family work might hold very concrete material and symbolic advantages in my life. That's true, really, of working-class women, say, in secretarial jobs or retail jobs, waitress jobs as well as poor women.

So I think the delegation strategy has really served to divide women, not only along these marginalized-worker, ideal-worker gender strategy lines, the gender wars, but the gender wars very quickly take on elements of class and race conflict.

Those problems are exacerbated, because in the delegation model, who do we think we're delegating to, speaking here as what I am, which is a privileged white woman? We're delegating most often to women of color. Often in quite exploitative work conditions, even if we are a good employer—even if we're paying market wage, again, the market delivers many things effectively, right? One of them is racism. In effect, white women have solved their gender problem by using their place in the racial hierarchy.

Of course, to the workers themselves, this is not lost on the workers themselves. They know that we are basically kiting between the relatively low wages we pay them and the quite high wages that we earn ourselves.

I do think that in this situation, there is a gender problem to be solved. But I think solving it through a delegation model does raise a number of questions, one of which is who's going to take care of the children of the child care workers? So I think this delegation model, again, produces really a heritage of division among women along class—both class and race lines.

I'll end with two quick points. First of all, I think that one of the things that comes through if you look at our particular gender system, domesticity, through a historical lens, is that you realize that this was a gender system that was literally invented to distinguish between the working class and the middle class. That was why it was invented at some level.

One of the major signs since 1780 of a middle-class family has been a wife at home. In that context, the idea of having a wife at home both has a strong symbolic pull, I think, to less privileged people, and also it has that material pull. We do still, by and large, after-school programs excepted, have a system of delivery child services through moms in cars. If you can't have a mom in a car, either because you're poor or because you're working-class and you can't get the mom out of work, you have children who can't access those child services.

So both for symbolic and for very material reasons, I think that feminists have to learn to talk about domesticity far more carefully than they have, in a tone of respect and acknowledgement, that this is an aspiration that many people share to this day.

Finally, given that everything I've said so far is obviously going to be accepted by everybody immediately, I will end with a somewhat more



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controversial point which is—and I want to choose my words carefully here—American feminism very often has functioned as a language in which women bond in anger against men.

Let me just say in the beginning, you know, men do a lot of bonding in anger against women as well. You know, I'm a soccer mom. A lot of the soccer mom talk is bonding in anger against men. This is part of a rich tradition of gender talk on both sides. You know, Thurber, right? War of the sexes. I do think that it does play, in many contexts, an important social role.

If you're trying to build an alliance on work/family issues, however, between privileged women and less privileged women, I think a language of anger against men is not an effective organizing tool, particularly in our socioeconomic context. As you know, working-class men have made dramatic losses since 1974 and are now feeling the impact: their fathers could support a family and live up to the provider ideal; they cannot.

Working-class women, I think, often feel a little solicitous of the hurt that working-class men feel, basically the gender hurt, because they are now, once again, excluded from the gender ideal that domesticity presents.

The same issue functions, I think, among people of color. If you have a situation where one-third of black men who are in early adulthood are involved in some way in the prison system, I think that for women to use a language of anger against men is very divisive in this context.

PROFESSOR DAVIS: I'd like to start with two quick anecdotes from the Feminist Jurisprudence class I am teaching this semester that I think demonstrate the significance of what it is that we're all talking about today. The case book starts with issues of sexuality and violence against women.<sup>5</sup> So as we were going through materials on pornography, rape, domestic violence and prostitution, the students were just so depressed. They said, "I just can't wait to get out of all this sexual violence stuff and start talking about women and family issues and children issues. This is just so depressing."

I will never forget, the first day we walked in to start the family/work session, and they just drooped in, demoralized, and said, "This is the worst material yet!" They said, "You know, I've grown up all my life knowing that rape was out there, and I kind of have skills to deal with it. But this material is just the most demoralizing,

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5. See generally MARY BECKER ET AL., CASES AND MATERIALS ON FEMINIST JURISPRUDENCE: TAKING WOMEN SERIOUSLY (1994).

debilitating stuff ever. How are we possibly going to deal with this? Is this our future?" So the solution was, they refused to talk about the material that day. So they talked about issues of whether women are nasty bosses or not. And I was in cahoots. We employed every avoidance mechanism in the book to circumvent the grimness.

As part of that same unit on work/family conflict, a student of color brought in a reflection essay that detailed how her cousin, who is a Caribbean woman with a college degree, came to the United States to work as an au pair and found that her employment contract involved working for room and board and \$150 a week plus benefits. It ended up being pretty much a twenty-four-hour work day. She was also expected to be the waitress and server at the family dinners and when they entertained for their friends and to drive the kids all around, and things of that nature. She just felt terribly exploited.

True to WCL tradition and spirit, my students were horrified and outraged (as was I). "This is terrible. It's intolerable!"

But then I had to do a reality check with them and myself. I said, "Wait a minute. Time out here. Let's just look around this room. Who are you in this scenario?" Again, they got really, really quiet. So I said, "We're all saying this is a situation of exploitation. So what we're saying is that you're all going to pay your child care workers \$300 a week? Or you're going to tell your kids they can't go to soccer and ballet and arts and crafts because there's no one to drive them?"

They said, "Oh, God. It's even worse than we thought."

So these are issues, I believe, that are demoralizing as currently framed. No wonder they remain invisible. I'm very heartened to see so many people here to grapple with them.

I'm going to introduce the panelists, each of whom are going to make some introductory remarks. Then I'm going to conduct this panel feminist "Crossfire" style—there will be a lot of affirmation, a lot of sharing, cooperation here—and ask them a series of questions to get at the three central themes that come out of this part of Joan's book on child care and gender dynamics (hence our title, "Who's Minding the Baby?").

One is a tension about whether feminists should be helping women to be more like men, or helping men to be more like women. People who were here this morning, I think you heard that as a little bit of a back-and-forth between panelists and the audience.

Another, I think, is the tension about whether we as feminists should be trying to shape our solutions based on the inevitability of privatization of child care in our economy, or whether we should be trying to agitate to move towards a more socialized system, a system of

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subsidies like some of our Western European counterparts. This, for instance, is the argument of Professor Martha Fineman, who spoke here last year as part of the Gender, Work, & Family Project Feminist Legal Theory Lecture Series.<sup>6</sup>

The third question was the one that Joan was going through towards the end of the last panel, which is: Are these delegation solutions to work/family conflict ones that only appeal to elite professional women, and not all elite professional women at that, and how does this affect, create, and manifest deeper race and class tensions within feminism?

To my immediate left is Marion Crain, who got her J.D. from UCLA. She teaches at the University of North Carolina at Chapel Hill, where she teaches labor law and employment law, family law and sex equality. She also practiced labor law with Latham and Watkins in Los Angeles, and she clerked for Judge Alarçon on the Ninth Circuit and is an author of a casebook on labor law.<sup>7</sup>

To her left is Bonnie Thorton Dill. Bonnie is a professor at the University of Maryland in Women's Studies, and she's affiliate faculty with sociology, Afro-American Studies and American Studies. She currently directs the campus-wide Consortium on Race, Gender, and Ethnicity. And I think some of the students in the room have been keeping track of the wonderful work of the consortium because they've been coming up to *me* all semester, complementing me on the work that Bonnie is doing, because I keep posting it on my bulletin board. They ask, "Gosh, how do I get to the University of Maryland from here?"

Bonnie just finished a stint coordinating a three-year seminar and workshop funded by the Ford Foundation on Meanings and Representation of Black Women's Work, which I had the pleasure to be a part of. Prior to being at the University of Maryland, she was a professor of sociology at the University of Memphis, where she founded the Center for Research on Women and served as the director there. And she has many published works, which many of us who do work on the legal side view as foundational texts. You just

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6. Professor Fineman's remarks were part of a book she is finishing. She delivered one part of this project as part of the Lecture Series. The American University Journal of Gender, Social Policy & the Law is publishing the lecture with responses and commentaries from elading feminist scholars from different disciplines, as well as policy advocates. See Martha Albertson Fineman, *Cracking the Foundational Myths: Independence, Autonomy, and Self-Sufficiency*, 8 Am. U.J. GENDER, SOC. POL'Y & L. 13 (2000).

7. See THEODORE J. ST. ANTOINE ET AL., LABOR RELATIONS LAW: CASES AND MATERIALS (1999).

don't know how many groupies you have here, Bonnie.

To her left is Nancy Dowd. Nancy got her J.D. from Loyola University in Chicago and has a master's degree from the University of Illinois. She is a University of Florida Research Professor and Trustee Research Scholar at the University of Florida Levin College of Law, where she's taught Contracts, and Family Law, Employment Discrimination, and Women and the Law. Prior to that, she practiced law in Boston and clerked on the Seventh Circuit. She's an expert on employment discrimination and other workplace issues. She's authored *In Defense of Single-Parent Families*<sup>8</sup> and other articles and essays.<sup>9</sup>

Finally, to her left is Catherine Ross, who received her law degree, her Ph.D. and her bachelor's degree from Yale University. She's been at George Washington Law School since 1996. In 1993, she was the vice chair of the ABA's workshop group on the unmet needs of children and was the principal author of its report, "America's Children at Risk: An Agenda for Legal Action."

From 1994 to 1998, she served as chair and co-chair of the ABA Steering Committee on the unmet legal needs of children. She serves on the editorial boards of *The Family Law Quarterly* and *The Journal of the Association of Family and Conciliation Courts*. She was a litigator for many years before she moved into teaching law.

So would you like to start with some preliminary remarks, Marion?

PROFESSOR CRAIN: When Joan called me to ask me if I would serve on this panel, she just asked one or two questions. Shortly thereafter, I received an e-mail with about twenty questions. Then there were more questions today. My mind is just spinning with which question to address first.

So I think I'll start with the one that Joan asked me to begin with, which was: What is the link between class and gender? How exactly does class come into play in shaping women's gender identity, particularly as it's relevant to these work/family conflict issues?

This is a subject that's close to my heart, both personally and in my research. In my research, I've struggled with this question, because there is quite a dearth of information about where women stand with regard to class theory generally. The usual take on it is that women's

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8. NANCY E. DOWD, IN DEFENSE OF SINGLE-PARENT FAMILIES (1997).

9. See, e.g., Nancy E. Dowd, *Rethinking Fatherhood*, 48 FLA. L. REV. 523 (1996); Nancy E. Dowd, *Stigmatizing Single Parents*, 18 HARV. WOMEN'S L.J. 19 (1995); Nancy E. Dowd, *Work and Family: The Gender Paradox and the Limitations of Discrimination Analysis on Restructuring the Workplace*, 24 HARV. C.R.-C.L. L. REV. 79 (1989); Nancy E. Dowd, *Maternity Leave: Taking Sex Differences Into Account*, 54 FORDHAM L. REV. 699 (1986).

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class status is derivative of men's, either their husband's class status or their father's class status.<sup>10</sup>

That obviously becomes less persuasive in a world where men and women are relatively co-equal breadwinners, or at least seventy percent/thirty percent contributors, whatever the current statistics might be in the population you're studying.

So we seem to have shifted to looking at income levels as an indicator of class status, which in my mind is also under-inclusive and really only drives underground the question of what the relationship is between class and gender. One of the things I so loved about Joan's book is that it brought this back out from the caves where it had been dwelling in recent discussions.

This question of the relationships between class and gender has a lot of personal meaning to me. I need to tell you a story, and then I'll connect it back to the themes I want to make quickly.

My grandmother, who died last summer, really typifies the phenomenon of the interplay between women's class and gender identities. Her life illustrates women's struggle with class and gender identities over time, and the inadequacies of the "delegation model" for poor women.

She was born dirt-poor which, as she explained it to me, means that she grew up in a home with a dirt floor and many siblings. We never got an exact count, because many died during the plague or as a result of famine.

She married up, a fact of which she was very proud, into a lower-middle-class family. She enjoyed domesticity for some period of time: from what I can gather, about five years, at which point she suffered a divorce. Unheard of in those days, but it happened to her.

When she got divorced, she fell back into poverty. Her solution for the problem of "Who's going to mind the baby?" was the only solution available at the time in her mind. She went with the "full commodification model" or "delegation to the market" model, except there was no private sector market to which to delegate child care. So she put my father in foster care, and for the next eight years she worked at low wages in an economy that was very hostile to women working generally. Later, she was able to reclaim him from foster care. The way in which she accomplished this was not by working hard and saving her money, although she tried to do that, but by remarrying further up, social class-wise.

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10. See Marion Crain & Ken Matheny, "Labor's Divided Ranks:" *Privilege and the United Front Ideology*, 84 CORNELL L. REV. 1542, 1587-89 (1999) (discussing women's social class identity as depicted in conventional class theory).

Now, an interesting question for me in talking to her over the years has been, what exactly is your class identity? Is it the identity that you were born with? Is it the identity that you married into to begin with? Or the last marital identity?

Well, as far as I could tell, it was the identity she was born with. She never shook that. There were strong psychological bases for that. She just could not get away from it. Her poverty at birth constrained the way in which she approached the world for the rest of her life.

The thing that I remember most and will always remember most was her unending bitterness until she died. Not towards feminism, because really she didn't even think of feminism as a force in those days. Feminism wasn't even in her mind. Her bitterness was directed at other women who had more than she had, and who had the luxury of being able to live with their families and to have the love and care of their children. She regretted all her life the schism that her divorce-driven poverty created between herself and my father.

We often speak about working-class women or poor women who look to the family as a haven of security. That's what my grandmother wanted to do. She just didn't have either the intact family or the ability to provide for it. The "full commodification" model was a failure for her at both levels, because she couldn't earn enough to get to the ideal worker status—she had to marry up into a higher-class privileged status—and because she couldn't delegate the child care out to any sort of private care-provider.

So then I come back to my own research with her experience in mind and try to look at how class and gender interact with one another. It seems to me that the measure of class or the experience of class is undeniably gendered, and that it has a great deal to do with the family as well as with the work world. I think I can make a case for four basic ways in which the experience of class is gendered.

First, class structures family formation. There's a lot of data now on what's called assortative mating, and that is the idea that people tend to marry within their own social classes.<sup>11</sup> Departures from this are still fairly heavily penalized. If people do marry out of their social class, it tends to be women marrying up, for which the penalty is certainly less. I guess they're realizing, if they're white women at least, the Cinderella promise.

The second aspect of how class is gendered is traceable to family continuation. Sociological research indicates that divorce rates are higher for working class and poor people than for those who are class

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11. *See id.* at 1588.

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privileged.<sup>12</sup> The rates are higher still for families where the wife's income approaches the husband's.<sup>13</sup> Because income parity is most likely to exist in working class families, the divorce rate is highest there.<sup>14</sup>

For these reasons, divorce has always been more of a force for people in the working class. More of a problem, in fact, than it has been for those in the more privileged classes who have enjoyed domesticity. As domesticity came to the working class in an era of relative affluence, there was more marital stability. As it leaves the working class, certainly there is less. I think that's one reason why some women are very scared about the advent of sex equality and about feminism, because it threatens the family. Literally. Higher wages for women pose a threat to their marriages.

Third, paid and unpaid work are clearly gendered. It seems to me that class identity here is critical. I think that there's room for feminist coalition-building with paid domestic workers and with unions. But I have plenty of skepticism about the unions' ability to organize these groups and to build these coalitions.

The point is that class and gender intertwine at a systematic level in paid and unpaid work. Kate Silbaugh has done some wonderful work—you're going to hear from her later this afternoon—on the devaluing of unpaid work in the family as well as paid work, that is caring work, done in the market.<sup>15</sup> American culture and law display a "somatophobia," fear of and disdain for the body. This tradition is discussed in the writing of anti-essentialist Elizabeth Spelman.<sup>16</sup> We have somatophobia, fear of work of the body. Our culture privileges work of the mind over work of the body at every opportunity. And this becomes a gender problem when you start to look at it in the work-family context. It's a gendered problem in the family. The work that is unpaid, that is done of the body and for the body—to care for children, or for spouses, or to clean the house, to care for elderly sick parents—is done primarily by women. That work is not valued.

On the other hand, in the paid labor market, that same work

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12. See Marion Crain, "Where Have all the Cowboys Gone?": *Marriage and Breadwinning in Postindustrial Society*, 60 OHIO ST. L.J. 1877, 1910 (2000).

13. See *id.* at 1912.

14. See *id.*

15. See Katharine Silbaugh, *Turning Labor into Love: Housework and the Law*, 91 NW. U. L. REV. 1 (1996).

16. See Elizabeth V. Spelman, *IN ESSENTIAL WOMAN: PROBLEMS OF EXCLUSION IN FEMINIST THOUGHT* 126-28 (1988); see also Dorothy E. Roberts, *Spiritual and Menial Housework*, 9 YALE J. L. & FEMINISM 51 (1997) (describing the privileging of spiritual aspects of housework over menial aspects).

suffers by association with the work of the unpaid caretaker.<sup>17</sup> Even caretaking work that is not directly family type work—for example, nursing, social work, teaching, any sort of work that has those care-giving elements—tends to be devalued. There has certainly been plenty of work done by people who study occupational segregation to establish that empirically.

Last but not least, it seems to me that—and here, I come back to my grandmother—class identity is more than a matter of just income or economics. You really cannot escape it at some level: it structures your identity for the long haul. For those who identify as working-class or poor, work is not the primary aspect that structures their identities. It can become a very central aspect, but it's not the primary aspect. Other things are: family, or in the case of people who don't have families, who look beyond that even, recreational activities, sports, friends, communities, bowling leagues, you name it. There are other sources of identity and places where people get feelings of self-worth. There's a reason for that. It's a coping strategy, I think. It's a way to deal with or protect oneself against the inevitable downturns that are likely to arise in the lives of persons who lack class privilege.

I could go on to document ways in which that works, but I think I'll leave that for later and just ask: What is the solution? What do we do with any insights that we might come up with about class and gender and how they're intertwined? What does it mean for coalition-building?

Well, it seems to me that the first thing we need to think about doing is to eliminate divisions or hierarchies of paid labor, as well as unpaid labor, that run along these conception/execution, mind/body, head/hands kind of lines. This is something that labor unions have been working on for a long time. It's called "Taylorism" in industrial relations.<sup>18</sup> That's the management strategy for separating mind from body and devaluing the work, paying people less to do the work of the body.<sup>19</sup> Such divisions and hierarchies operate to ensure that those who lack racial, class or gender privilege will be relegated to the bottom of the hierarchy in the home and in the labor market.

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17. See Silbaugh, *supra* note 15, at 79.

18. See Marion Crain, *Building Solidarity Through Expansion of NLRA Coverage: A Blueprint for Worker Empowerment*, 74 MINN. L. REV. 953, 985 (1990) (describing Taylorism, or "scientific management," as a workplace organization theory which was designed to solve the problem of controlling labor).

19. See *id.* at 986 (finding that it provided for cheaper labor by depriving the laborers of knowledge behind their work and thus decreasing the power of unions).



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There's room in feminist theory and praxis for use of this concept in fighting against gender oppression as well as against class oppression. I'd like to see them linked together. I think in addition to that, closely related to that, we need to be working on the family side through family law reforms, as Joan is arguing for, to try to value the work of the body there, so that care-givers' work inside the family is valued.

I'll stop there and let my fellow commentators go on.

PROFESSOR DILL: Thanks. I'm going to approach this a little bit differently and just comment on a couple of issues that I would like to see us think and talk about as we move forward.

It is a pleasure to be here today. When Joan called me and talked with me about coming, she said she was particularly interested in my participating because of my earlier research on private household workers and their experiences, both in terms of raising their own children and being domestic workers in the homes of upper-middle-class families.<sup>20</sup>

So I will bring some of that in as we go on through the discussion. But to begin, I just want to mention a couple of things in response to Joan's work. I think Joan's work is really exciting, and I'm pleased to see that you continue to struggle with some of the issues about how one thinks about the ways in which race and class affect the experience of gender.

The first thing I would point out, as a kind of cautionary note—I think you mentioned this a little bit earlier. . . . These so-called gender wars, wars between women, exist with a context of racial and class conflict.

Just as Marion said that the experience of class is undeniably gendered, I would argue that the experience of gender is undeniably raced and classed. The whole of domesticity, and you (Joan) refer to this a little bit—is a notion itself that is based not just in class relations, but also in race relations.

When we think about the domestic ideal and who makes an effort

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20. See Bonnie Thorton Dill, "The Means to Put May Children Through:" *Child-Rearing Goals and Strategies Among Black Female Domestic Servants*, in *THE BLACK WOMAN* 107 (La Frances Rodgers-Rose ed., 1980) (discussing the hiring of African-American women by white women to perform household tasks); BONNIE T. DILL & BRUCE B. WILLIAMS, *RACE, GENDER, AND POVERTY IN THE RURAL SOUTH: AFRICAN AMERICAN SINGLE MOTHERS IN RURAL POVERTY IN AMERICA* 97 (Cynthia Duncan ed., 1992) (relating the results of a study of African-American single mothers in Mississippi and Tennessee); Bonnie Thorton Dill, *Our Mothers' Grief: Racial Ethnic Women and the Maintenance of Families*, 13 *J. OF FAM. HIST.* 415-31 (1988) (stating the importance of African-American women's earnings to the survival and well-being of the African-American family).

to achieve it or who has the rights or the resources to achieve it, we have to understand it as rooted in a racialized economy. The discussions that you currently frame as the gender wars has embedded in it a racial structuring that puts certain groups in a position to debate these “mommy” issues and leaves other groups out.

So in discussing this issue we really need to acknowledge that class and race are deeply embedded in the way the entire debate develops.

The second point I wanted to make and put out here for consideration as we talk is that at least in some of the material that I looked at, Joan, you focus a lot on anger, the anger and the feelings of women of color towards white women as a result of inequality.

I think that it is important to recognize that people’s different social locations and the different experiences that result from those social locations yield different perspectives on social issues. If we’re thinking about what are the places where we can build collaboration, what are the places for coalitions, we must begin with that recognition.

I also think it’s important to understand that these feelings are outgrowths of inequalities that are structured into the society. My point here is to shift discussion away from the feelings of anger to the interpretations people have to the economic and social circumstances of their lives. In other words, exploitative employment relationships that people found themselves in may have made them feel angry, but just as often their response may have been resignations or resistance.

Let me give you an example, and we can talk more about this because there’s certainly been a lot written about it. Critical to the notion of domesticity are questions about who has the right to mother and the resources to do it in a socially idealized or acceptable manner? How is it that privilege is structured in the society in ways which may support some kinds of mothering and yet deny even the right to be a mother to others?

I think it is important to focus the discussion on the structured inequalities and not let our discussion remain at the level of rhetoric and emotion. We need to try to understand the ways that structures generate and support these differences. I recognize that you talked about importance of material conditions, but I want to emphasize that even more.

The third point I want to make is a point I’m sure we will talk about a lot more, and it has to do with the way in which family life is organized and structured and what that means for the caretakers who are engaged in this work. Adrienne, in your example you mentioned paying your care-giver more. I agree that certainly one of the ways

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people try to deal with the issue of exploitation is by paying good wages.

But I think we really have to go beyond individual solutions to address this issue of the way in which family life is organized. As long as family life and care-giving are privatized in the way that they are, then the employer-employee relationship is a personalized one, and the worker is dependent upon the whims, the personality, the idiosyncrasies of the employer. This creates a potentially volatile work situation and makes the worker quite vulnerable and insecure.

The result will always be people negotiating work and domestic relations in very personalized ways. Employers are insecure because they never know when a worker might quit. The household workers I interviewed talked about quitting as a strategy for managing the work. When the work got to be too unpleasant and you just couldn't stand it anymore, you just quit. You just didn't come. You know, you called up and you said, "I'm sorry. I quit." Because as one woman said, "This is not my job. This is her job."

I'll stop now with those three points and hope we can talk about them in our discussion.

Nancy?

PROFESSOR DOWD: Well, this is going to start feeling like you're hearing the same thing, I think, over and over. It's interesting that some of the same perspectives and pieces have come up for us on this panel.

As was mentioned in my introduction, my most recent published work in this area has been on single-parent families.<sup>21</sup> Currently, I'm just about finished with a book on fathers<sup>22</sup> which grew out of my single-parent research. So you'll hear about single parents and fathers in some of the perspectives that I would like us to think about.

It seemed to me as I thought of the questions raised by this conference that the most critical factor to consider in "unbending" gender is to understand in all of its complex ways the intersections of gender with race and class. In that respect, I would argue that we can evaluate and learn the most about work and family from those who are most on the fault lines of race, gender, and class.

Looking at the intersections, it seems to me, is essential when we look at work: We must confront, for example, the fact that even though we have very low unemployment right now,<sup>23</sup> the rate is

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21. NANCY E. DOWD, *ON DEFENSE OF SINGLE-PARENT FAMILIES* (N.Y. UNIV. PRESS 1997).

22. NANCY E. DOWD, *REDEFINING FATHERHOOD* (forthcoming 2000).

23. See Peter G. Gosselin, *Jobs, Wages Growing at Good Pace; U.S. Reports Economy:*

double for blacks and Hispanics what it is for whites;<sup>24</sup> median income is still half for blacks and Hispanics what it is for whites;<sup>25</sup> the rate of poverty remains at twenty-five percent in the black community while it is under ten percent for whites; and although one in five children is poor overall, those numbers double or triple in communities of color. We need to pay attention to race and class and start from those who are in the most disadvantaged position. Otherwise, it is likely that any of the work/family solutions that we are talking about are not going to be responsive to those who need them the most.

On the family side as well, if we look at family structurally in terms of the distribution of single-parent and two-parent families, marital families, nonmarital families, blended families, and the kinds of challenges that face different children, there is significant differentiation in all of those factors across race and class lines. When you combine those differences together in the way that work and family are experienced, the crying policy need is with respect to economic priorities. Economic priorities should come first, especially finding a way to provide sufficient family income to all forms of family. Attending to race and class intersections also points to variables among men, as there are among women, between the privileged and those with lack of privilege. This points in the direction of looking at subsidies as absolutely critical to resolving issues of work and family, and that we take on race as a primary feminist issue, not as an add-on feminist issue.

Second, we need to more strongly work from the family side to the work side, rather than the other way around. We have named this problem "work and family" for a long time, indicating, of course, that we put work first. We haven't been able to switch this around and call it "family and work." But I think that it is important for us to spend more time looking at families, all kinds of families, in order to conceptualize how we think things ought to be, and then work from there to structure the kinds of policies and changes that we need in the workplace in order to support all families. It seems very obvious,

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*Employers Boost Hiring in June, and Pay Levels Rise at a Rate that Allays Inflation Fears; Administration Says Figures Prove Expansion is Sound; Dow Closes at Record Level*, L.A. TIMES, July 3, 1999, at A1 (discussing the continued low unemployment for all Americans).

24. See *id.* (mentioning that although unemployment rates for Blacks and Latinos are still at an all-time low, these rates remain double to that of Whites); see also Add Seymour, *Listen to Your Inner Voice, Not the Poll Takers*, KNOXVILLE NEWS-SENTINEL, Nov. 15, 1999, at H1 (reciting statistics that show unemployment of Blacks, although low, is still twice as high as unemployment of Whites).

25. See Seymour, *supra* note 24 (citing statistic that on average, black persons earn \$21,000 less than white persons) (citations omitted).

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in some respects, what family supports are needed. Time and money are the easy answers. We need more time, more time flexibility, and, more money so that there is a sufficient, supportive environment within which every child can develop.

With respect to children's needs, we tend to talk an awful lot about babies. We talk about child care as if all children are in full-day, all-day care. We don't talk about the different needs of middle-school and high-school children. We need to be having more conversations that include, for example, the structure of education, and also whether we think we ought to have a broader role for schools—for example, whether we ought to have universal preschool on the French model, and whether our child care ought to include both working parents and non-working parents, again on the French model.

With respect to families, we ought to be imagining what our ideal is. Joan chose to focus her analysis on two-parent, presumptively marital, heterosexual families. I would argue it is as important that we also consider any work/family image, vision, strategy, benefits from the perspective of single-parent families and blended families. From the perspective of those families who have been most marginalized, we can most effectively evaluate whether we are serving all families. We also can learn from those families. By their ability to survive within the structure that we have, they have much to teach us. They are not just families that we paternalistically ought to help.

For example, from the perspective of single-parent families—and I am one of those “single-parent families”—a policy of proportionality in part-time work is an option that simply is not a workable option for me. It won't get me anywhere. I don't have a partner in, or outside, of my household with whom I might be able to share income responsibilities or care-giving responsibilities.

We have to think of work/family policy from the configuration of families that we have, and also recognize that those families do not stay stable over time. Even the family structure, among those who maintain one marital structure over time changes because both children and parents are aging. So many of our families, however, change structurally over time; we have significant fluidity that must be factored into any model that we devise. For many parents in our society, they have connections to at least two families and sometimes more.

Finally, we haven't thought through well enough the question of whether we are going to continue to imagine work and family on a single-parent model or on a shared-parenting model. Joan's model is

implicitly a shared parenting model. She means—if we're talking about a two-parent family—a 50/50, not a 70/30 or a 60/40 model. But the model that we have been operating on for a long time, whether within or without two parent families, is a single-parent model, meaning that one parent does most of, if not all of, the care of children. If we mean to simply rotate that between men and women, that's one direction that we might head towards, and it would be a radical change. If we equally share caregiving, that is similarly a revolutionary change. Which leads to my third point, and that is that we work from a very strongly skewed gender context of family and work. We all know that. We may have to think through solutions to this gendered content in a gender-specific way. My work on fathers suggests that work/family issues for fathers are significantly different for the work/family issues of mothers. Again, please keep in mind the race and class differences among fathers and mothers when I make that statement. In a very generalized way, for mothers, their strongest needs are around money, are around economics. Around fathers, their strongest needs revolve around the cultural norms of what we think fatherhood is. In terms of work/family strategies, I would still want to make an argument for the Swedish model,<sup>26</sup> not as a perfect model, but as a model that has a great deal to offer. From that model, we can learn and modify our policies in order to better achieve the goal of gender, race and class equality. In terms of the economic issues that I think are especially critical, I think the Swedish model best resolves those issues for the most families.

Strategically, I know all of the pragmatists are going to say that this is totally unrealistic. I grant you that. But this is where we need to go. Subsidies are critical, meaning universal subsidies for families, as well as perhaps considering some special subsidies and supports for single-parent families; universal entitlements for health care, preschool and child care; a public health model for fathers to reconceptualize and change the culture of fatherhood, not based on a rationale that fathers are unique, but rather that care-giving is good for men and good for children; and measuring the sufficiency of any of those currently marginalized families, parents, and children.

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26. See Nancy E. Dowd, *Envisioning Work and Family: A Critical Perspective on International Models*, 26 Harv. J. on Legis. 311 (1989) (describing Swedish and French models of work-family policy); L. Alstott, *Tax Policy and Feminism: Competing Goals and Institutional Choices*, 96 COLUM. L. REV. 2001, 2053 n.172 & n.211 (describing the Swedish Model as a combination of providing income support to caregivers, such as family allowances, and policies that benefit women who are caregivers and also work outside of the home, such as paid maternity leave).

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PROFESSOR DAVIS: Catherine, do you want to make remarks?

PROFESSOR ROSS: I do.

PROFESSOR DAVIS: Go ahead.

PROFESSOR ROSS: One of the most important things that Joan has done in this book is to bring children back into focus. I think that over the last forty years since Betty Friedan's *The Feminine Mystique*,<sup>27</sup> the notion has developed that somehow women and children were competing over scarce resources, rather than both suffering from scarce resources, and that the feminist agenda was not an agenda that had children at the heart of it.

I still hear a lot of that presumptive conflict in the controversies about whether there can be more than one kind of feminism, more than one kind of political agenda for feminists, more than one kind of social agenda.

As a society, we've been talking a lot (in the last year in particular) about what's wrong with our kids. We tend to focus on the crises. The children we're talking about are at the margins creating questions about such issues as parental liability if a kid shoots up a school.

But we're not talking about the kind of society that raises children in a way that ensures that we're aware of who our children are, or where there are some adults in the community at various times, regardless of social class. The big public shock has been that all these problems are now happening in affluent, largely white suburban school settings where we've assumed that everything was fine, and the focus has been on who can we blame and who can we punish, rather than whether there things that we're not doing right? How can we prevent problems? How can we nurture? And nurturing, of course, being an important part of women's cultural identity, for better or worse, depending on whether you're looking at whether it makes a woman stay home when she wants to work, or as a social value that is really important.

So when Joan talks about the norms of parenthood, I think that it is a very important issue to put back on the table, and it resonates in a number of different ways. One is the idea that we do have an imbalance between work and family that is a problem for so many adults, and it's also a real problem for children. But underlying that is the issue that children are the concern of all of us as a community. We live in a democracy. We live in a capitalist society, for better or worse. A capitalist society needs good workers, not necessarily "ideal

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27. See FRIEDAN, *supra* note 1, at 15-32 (1984 ed.).

workers,” in Joan’s language.<sup>28</sup> And a democracy needs people who can understand and carry out the responsibilities of citizenship.

Since the beginning of the American republic, that has put children in a special place in the United States at least in terms of talk, not in terms of walk, not in terms of resources. We need to remind people about what happens when our children do not get taken care of properly.

We often talk about the public responsibility as opposed to a privatization of family. That oversimplifies matters. Because things like public schools—which we’re, parenthetically, increasingly abandoning to the lower social class groups and to persons of color through the voucher system, through the decline of inner-city schools and so forth—don’t function very well without parental involvement.

Community institutions, to the extent that they can take up some of the slack from overburdened families, need input from consumers. They need consumers who will be there saying here’s what’s working, here’s what not. Here’s what we demand.

If you’re at work eighty hours a week and then come home to clean your house or give instructions to your housekeeper, depending on where you are in the hierarchy, you don’t have time to go to school and find out what’s happening there. The school teachers, as someone said this morning, don’t think it’s part of their job in public schools to give you a home phone number. So you can’t even do the management part of that task, let alone have hands-on involvement.

And with all due respect to Heidi, I think there’s a big difference between a child and a puppy. I love dogs. I had one as a child. But my son pointed out there was no way that he was really going to walk the dog, and I couldn’t do it.

So as a society, it’s very nice if people have puppies. But children are a necessity to promote our communal good, to the extent that we can agree on having a communal good.

I want to echo the earlier comment about older children. This conversation often takes place as if, once children start school, they don’t need anything else. As the parent of a thirteen-year-old, I can tell you it was a lot easier to delegate taking my son to play in the sandbox and make sure that nobody hit him than it is to delegate his social values and his learning how to discipline himself to do his homework and his long-term projects. I need to do a lot of that, and

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28. See Joan Williams, *Unbending Gender: Why Family and Work Conflict and What to Do About It* 1 (Oxford Univ. Press, 2000) [hereinafter UNBENDING GENDER] (defining the “ideal worker” as one “who works full time and overtime and takes little or no time off for childbearing or child rearing”).



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I need time in order to do that. So I want to thank Joan for putting that back on the agenda.

Bonnie raised a related issue: Social choices about who has the right to parent and who gets the resources to do parenting. That has been a central problem in my own area of scholarship, child, family and state, because historically, Anglo-American culture has removed an awful lot of poor children from their families to grow up the way that Marion's father did. The message was that if you don't have enough money, we're not going to provide the money, because we don't think that children are a shared responsibility. We're going to punish you for not bearing that burden successfully.

But it also stemmed, in part, from a sense that the marginalized workers who couldn't support their children didn't share dominant social values and cultural traditions that we wanted to promote, and that, in some ways, it was better for them not to be in these impoverished homes with impoverished parents. These parents were being blamed for lots of things besides simply a lack of money.

I am concerned that Joan is arguing for the imposition of newly created public values of a norm of parenting and a way of doing it onto private institutions such as corporations. And I think that's important. I don't think we're going to break the logjam that we're in without doing that.

But I'm trying to come up—and I haven't yet; I'm not going to give you the answer today—with a theoretical way of distinguishing between imposing those kinds of positive public values which promote parenting and imposing the kind of parenting that we want to see in terms of cultural values and norms in the private family. Because one of the things about the United States—both one of its toughest problems and one of its greatest resources—is cultural diversity and pluralism. So we have to find a way to hold all employers accountable, but tell parents that within the margins that we've set of extremes of behavior that are unacceptable, such as child abuse, we're going to give them the time and the resources to parent and let them make their own choices about what is important to transmit to their children. It's very important that we respect those lines, especially because they have always had both class and race overtones.

On a different note, I was struck this morning by the imagery that people had in the late 1960s about what would happen as a result of the new technology. There was a great deal of conversation at that time about the three and four-day work week, and how were we ever going to find enough things to do to occupy ourselves? So the

discussion was really about how the entertainment industry would grow; everybody would be playing golf, because of machines we weren't going to be doing so much. We were going to have abundant leisure.

Children actually—at least as I remember the conversation, having been pretty young at the time myself—were not the focus of the conversation. People did not fantasize, “When we leave the office, we'll spend more time with our kids.” Instead, they thought, “We'll have all this fun.”

In this respect, I need to echo the comment that someone in the audience made this morning about the downside of modern technology. I'm not calling for going out and smashing all the computers. But while we have long criticized the public/private dichotomy that was created so dramatically in the late 18th, early 19th century, we're losing that separation. We are seeing that the loss of that separation isn't entirely a good thing.

I don't want to be reachable. I don't want to leave my cell phone on. I don't want to receive a pile of briefs by fax. And merely changing the hours in the office, but not the expectations about availability, is not going to help. I think that that, obviously, is more true for professionals and white-collar workers. But when we talk about the virtual office, there is a great burden that goes with that. Because historically, when people worked on the family farm and did weaving and mending at home, you could do it all. I can watch a child and sew a hem. I'm not making my clothes from scratch. But I can't write an article and watch a young kid. We do different kinds of work in the modern world. So how do we deal with the intrusion of work into the home, even as we're trying to reclaim our time at home.

Similarly, the whole notion of mothering is a pretty modern notion, as Joan's excellent review of the literature makes clear. For most of history, mothers were working. Affluent mothers were never primary caretakers, even if they weren't engaged in the labor market. There are, again, race and class distinctions.

But it's very important to think about—it's another aspect of the histories that we bring to this. I was very struck by Joan's definition of the African-American woman who has always combined everything, because she didn't have a choice, as a potential role model from whom privileged white people could learn about how to take things in stride.<sup>29</sup> Joan discusses how the traits that create success outside

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29. See *id.* at 174 (stating that the African-American community “provides rich

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the home are seen as something womanly, rather than giving up being a woman in an essentialist way, and garner respect, both in the community and in the family.<sup>30</sup>

One of the issues concerns privileged women, coming out of the tradition where women kept busy, but not by doing the household drudgery or the child caring, (because somebody else always did that) they did the cultural work, the community work, the charity work. So the whole notion that we suddenly have developed a generation of kids who are the first generation not to have their parents there is very misleading, because it was really only the postwar generation in which so many men could afford on one wage to keep a wife at home, that had that model that we all tend to defer to now as the norm. It wasn't the historical norm.

Finally, listening to our conversation this morning, I was struck. And this goes a little off the issue of kids, but I think that it's important to say. When a number of the speakers had dinner together last night, some people were questioning whether Joan's project was sufficiently radical, whether she accepted too many premises of the current employment structure. On the contrary, I think it would be difficult to exaggerate the radical nature of Joan's endeavor. She is arguing that the interconnected nature of so many entrenched systems means that we cannot engage in meaningful piecemeal reform. *Unbending Gender*<sup>31</sup> demonstrates that we cannot transform the family without transforming the work environment, and that we cannot change the work environment without reconsidering some of its most basic assumptions, such as the very definition of an ideal worker or the notion that productivity requires a continuing quest for advancement.<sup>32</sup> And, she argues, transforming the work environment to make it receptive to parents and others who seek a more balanced life requires political changes such as universal health insurance that would make part time work economically feasible, and universal quality day care. In short, private and public responsibility will have to be reorganized at a fundamental level. It seems to me that this is a radical agenda in the contemporary political environment.

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codes of tradition that offer important cultural resources," such as the strong condition of viewing work in the marketplace as "part of motherhood," rather than inconsistent with it).

30. See *id.* at 174-75 (contrasting African-American traditional views with white traditional views).

31. See *id.*

32. See *id.* at 1 (defining the "ideal worker" as one "who works full time and overtime and takes little or no time off for childbearing or child rearing").

(Interruption)

PROFESSOR CRAIN: —service-sector job, low-paid, married. Has a child, gets divorced. Finds herself, because of inadequate child support laws and poor enforcement, dependent on the father for that money to support the child. The father's not there, doesn't pay, or the award is too low or the father doesn't have enough income—you can't get blood from a stone kind of problem. It costs more to support two households than one.

So how does she solve the problem? She can't just quit work, or else she's going to be like my grandmother: in the absence of welfare, she's going to be back in the situation of no money.

So, what does she do? She brings her divorced mother to live with her, to do the child care, and supports her divorced mother. Recent empirical research finds that poor women and working class women are more likely to pay their relatives for child care than more-skilled mothers.<sup>33</sup>

But they don't necessarily pay them a wage. They pay them by, say, taking over the car payments. So that there will still be that car that Joan mentioned, that car that you need to get the kids to and from whatever activities you're taking them to.

So that's the kind of strategy I see. When I look at that, it's just so complex a situation. You've got the older woman who could barely make it on her own, who's being brought into this new household as a child care-taker. She certainly has no pension system.

She has nothing to fall back on later. Nor does the younger woman, her daughter, because the daughter is employed in a service sector job that may even be part time, but probably doesn't have any benefits associated with it.

But they accomplish the short term goal. The short term goal is good child care. Trustworthy child care. Affordable child care. So, a couple of examples.

PROFESSOR DILL: I want to concur with that. Although I'm struggling with this a bit, because I'm struggling with the question and the notion of the delegation solution. I think about the two groups of women who I've studied: low income single mothers in rural communities, and low income women who were paid domestic workers.

I'm not sure that they would have constructed the issue in this way,

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33. See PATRICIA M. ANDERSON & PHILLIP B. LEVINE, CHILD CARE AND MOTHERS' EMPLOYMENT DECISIONS, REVISED PAPER PRESENTED AT THE CONFERENCE "LABOR MARKETS AND LESS-SKILLED WORKERS," SPONSORED BY THE JOINT CENTER FOR POVERTY RESEARCH, Nov. 1998, at 10, 34 (Jan. 26, 1999) (paper on file with Professor Crain).

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in terms of delegation of their child care responsibilities. I think that, as Marion talked about, one of the questions that came up in looking at some of the women in rural communities was, why did they stay there?

Job opportunities were so very limited, and clearly there were not a lot of resources there, in many ways. Why did they stay? Why weren't they part of the group that migrated? You know, migrated to the cities, to a better area?

It was clear for a number of them that part of the reason that they stayed was because they had a family network there to care for their children, and to care for themselves.

So for example, one woman had a whole elaborate system where she lived in this neighborhood, and her sister lived nearby, and her mother lived nearby. They could take care of their children. Their brother and her father had a mechanic's shop, and they kept her car running, because otherwise she wouldn't have been able to afford to have it.

So every piece of her life, in a sense, was tied into parts of this family network. Certainly for people in rural communities, that was very important. I think in urban communities, the family network is there less for low income women today.

The other thing was that some of the women who were in domestic work did something similar to what your grandmother did. But these women were able to leave their children with their mothers in the South, while they came to the North to work.

It carried along with it in many ways some of the same issues about disruption, distance between the child and the parent, the parent's guilt, and all of those kinds of things. But it was really clear from the women that I talked with that the only trusted care was family care.

That was partly because you read all these things in the paper, you see all these horrible things happening to children, and you don't know who to trust. So, that has something to do with resources, and the amount of money people have to buy good child care.

But it's more than just the resource issue. It really is about who you can trust to pass on the values, and to care about your children as much as you do; that you know that they will look out for them because they raised you well.

PROFESSOR DOWD: I was thinking about a couple of things. I was trying to think in terms of coalition-building instead of separation. It seems to me that one of the pieces here is whether we're trying to get to a model of self-sufficiency for all adults, like economic self-sufficiency, or what we do about dependency.

So that's really more a question, I suppose, than an observation. The second piece actually links up with your last comment. That is that networking strategies are things I think are characteristic of single parent families, which all families would be well to adopt as a good strategy.

In other words, it ought to go from single parent families to other families. Because I think our norm, and one of the norms that gets in the way of dealing with work-family issues, is the norm that families are private. This morning, Catherine was talking about children as communal concern.

That is not a societal norm that we have. If that was a norm that crossed class and race lines more than it does, it would also, as a concrete personal strategy, be a norm of greater networking. When you're a single parent, and for those of you in the room who are single parents, you know you cannot survive without your network. It's both paid and unpaid. It's friends, family, and neighbors.

So you do not tend to rely on a partner, that's the only back-up system that you've got. You have to have much more than that. I think that if that norm were spread more broadly, that would be a strategy that could cross race and class lines.

Another thing I thought about is how, instead of it being a norm of delegation or parental care, in some cases you want to have both. I remember reading recently a report of a child care project, as I recall, perhaps in North Carolina. This had been a long term project of following two sets of low income children.

One set of children was put in a very high quality child care setting all the way through their school years. For the other set of children, I think their parents were provided with some money resources, but not with the same very high quality child care and after-school care, that went all the way through high school.

The differences in outcomes, to me, demonstrates a norm of commodification in the sense of delegating some care, while at the same time having parental care. So it's a kind of combined strategy. It's looking also to try to break the cycle of poverty, in terms of having better outcomes for children who are born into poverty.

The outcomes were dramatically different for those kids, in terms of the number that eventually went to college. Those kids are now in their twenties, had not married, and had had any children of their own until after they had completed their education.

On almost every parameter, the kids who had had that early pre-school intervention were doing better over time. So that seems to me sort of a combined commodification and parental care strategy.

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The other strategy it seems to me that crosses race and class lines is the necessity for the desegregation of work. I think one of the concerns about the part-time work strategy is that it will probably maintain the segregation of work on race and gender lines instead of helping to break it down, because it will make it look more attractive.

In fact, that's one of the lessons out of the Swedish model. The taking of available part-time work options, which are taken mostly by women, has meant that there are whole sections of the Swedish economy dominated by female part-time workers.

So in other words, it's reinforced the gender segregation in their work place. So, some other piece of this has to be the desegregation on both race and gender lines of work. Again, that should be a strategy that would connect across race, gender, and class lines.

SPEAKER: We'll get to the next question on your agenda.

PROFESSOR DILL: Looking at parental care as a norm to be tapped into, rather than something that we want to get rid of and delegate out, is I think a very powerful strategy regarding the welfare movement.

I mean, what this country has said in the last ten years is, if you're a poor woman, you should not have any time for your kids. To reverse that, we need to tap into this value and say, we don't care whether you're poor or rich, you should have time for your kids. That isn't to say or suggest that you have to do all the care.

I don't think that's the message. I don't think that's where we're going. We are not saying, you know, you have to do home schooling, and the two parents should divide that up. I think there will always be a mixed model.

What we're saying is that society has gone so far towards saying "we're going to contract out kids," that we need to reverse that. We need to reverse it for poor moms and single moms, as much as, you know, dual earner or middle class families.

PROFESSOR DAVIS: Let me give us a chance to push a little bit more at the solutions, because I've heard people offering different solutions. One solution that has come out over the course of the day is delegation of child-care to the formal paid market. But I think the prior question is where the child care responsibility lies. Even the term "delegate" assumes the responsibility lies with the mother as "woman" to either perform or assign to someone else.

Because what a lot of professional women have done is to delegate to a paid market system where they can get care that they trust, and that they can afford. Some people today have said that this is essentially a strategy that enables women to act like men.

A related strategy that people have been talking about (I heard you saying this one in particular, Nancy) is to focus on the initial decision that enables the economy to privatize this question—to make it a question of family responsibility without recognizing its state and public aspects and effects.

Instead, we should say that these questions about child care are really questions about communal good. Yet a third proposal (Joan's book offers) is to restructure the work place, right? So you have three, I think spheres, with three different implications. State, family, and market are different spheres.

Now, some people would say that, of course these are not mutually exclusive. Why don't we argue for all three? But also implicit at some level is that people worry that some solutions are likely to skim women off the coalition—the delegation model being a prime example. Once their needs get met, they will no longer want to argue about things anymore.

So perhaps we can have a conversation about whether people think that we should be putting efforts behind a single one of these, or whether we should be arguing for different ones? Are any of them just so problematic that they should be abandoned by good-thinking feminists?

PROFESSOR ROSS: If I can answer that on a practical rather than an academic level—we want them all.

One of the things that I found most personally troubling in reading Joan's book was that it forced me to think about choice differently. I started trying to imagine what a world in which I really would have choice would be like.

I'm a privileged woman. I have about the best job you can have in terms of combining career and family. I'm a law professor. I have to be somewhere four hours week. Of course, I also relocated for my job, and I commute between Washington and New York.

So, as soon as you start looking, life gets a little complicated. I wanted a certain kind of job. But thinking about that, one of the messages of Joan's work is that we have to restructure the work place, and not have only one model of an ideal worker.

We should also not have one ideal model of an ideal family, whether we're talking about the number of parents, the marital status, or the way that parents make choices about what's going to be best for their children.

Because even within one family, you may feel that different answers are necessary. Tommy gets along really well with grandma, but Rachel doesn't, and she needs something else. She needs more



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stimulation from other kids her own age. So, we should certainly try to work for all of the solutions.

Now, that doesn't answer the more immediate political question, because we only have a limited amount of energy. Infinite variety is a long way off. So, where do we start?

Probably in forcing people to reconceptualize, and to confront the central issues of normative parenting, and our ingrained assumptions, and to question the willingness to accept the current definition of the work place.

SPEAKER: May I respond to this? I've got lots of other questions.

Well, what struck me about all of them is trying to think them through. Again, is our goal to better support who is doing care-giving now? Or is our goal to expand who's doing the care-giving, knowing again how skewed the pattern is on gender terms?

I'm not sure what the answer is to that. It seems that the full delegation model is a model that is likely to work the least. I think Joan is right about this. It works the least towards providing children with the care that they need, or towards opening up the possibility that more care is going to be done by fathers than is currently done now.

But as to the other two, I'm not sure. I'm not sure that we have yet figured out a really good way to reorient, again, the norm of mother care, as opposed to a very low norm of father care.

PROFESSOR DAVIS: Let me ask a question about subsidies. A lot of feminist policy works point to the Scandinavian countries and other countries in Western Europe as examples of political economies that have given quite generous subsidies. They have really identified the question of dependent care as a public issue.

This has had, at a minimum, the effect of keeping women and children from being in poverty. But perhaps a separate question is, is that a good strategy for trying to achieve gender equality?

SPEAKER: Does someone have—

ANNE GOLDSTEIN: Can I interject the question of race here? I'm sorry, but this discussion is taking place in a country I don't recognize. Because when you talk about subsidies, the Scandinavian model, socialism, and socialized care, you're talking about homogenous societies.

This is a society which, in order to have that kind of subsidy, would require a transfer of money from white people to non-white people. Politically, that's a country I wish I lived in, but I don't.

Some years ago, I represented the Kansas City, Missouri, school district in litigation against the State of Missouri, to fund school

desegregation. What I found, looking at the voting records, was as long as the schools were fifty-one percent white, all the bond issues to support the schools passed. In the year it went from fifty-one percent white to forty-nine percent white, the bond issue failed, and it never passed again. The majority of voters were white in all those times.

It would be nice if we lived in a world in which white voters wanted black kids to be able to—I mean, many of us are trying to create that world—but I think to speak of this mass of willingness and to create these wonderful French/Scandinavian-type subsidies, is so naive that I can't really, I'm sorry, but I can't sit still and listen to it without griping at you.

PROFESSOR DOWD: Well, I think one of the ways in which it's done in those two countries is not to make it needs-based. They are universal subsidies. The attempt is to sell them on the basis that you support all families, so that you aren't doing what you're suggesting, taking from wealthy families to support poor families, because you are supporting all families.

SPEAKER: Right. But didn't you just say you were doing it in a Rawlsian way, focusing on the least-well-off first?

PROFESSOR DOWD: I am saying that I think we have to do that. Now, I'm not saying you would sell it that way. I'm not saying you would propose it that way. I'm saying that we, as strategists, need to pay attention to those who need it the most. I would not argue for a needs-based system.

I think that universal entitlements are a much more palatable way to do this. It sends the message that the community values all children. Now, if that's socialism, so be it. But I think that ought to be a message that we are comfortable with. That ought to be consistent with egalitarian ideals. That ought to be consistent with notions of equal opportunity.

Now, whether it's politically possible, I grant you, I don't know that it is. But I see that as a better way to go, rather than some kind of structure that is done on some sort of graduated income basis.

PROFESSOR DAVIS: We have a lot of interest and hands in the audience. I'm just going to throw out two last questions, and then open it up to people to ask other questions, and let you respond to whatever you want.

I just want to get these last two out there, because I think they're related, and I don't want to completely give up my power as moderator until I get them out there!

One is the question whether class disenfranchisement has actually fed in some ways gender traditionalism among working class families,

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working poor families, and families of color. Marginalized communities struggling with work/family conflict. One of the responses of marginalized men, be they working class white men or men of color, may have been to try at any possible level to say, I really would like to be able to embody the norm of being the bread winner. Can I please embody the American norm of masculinity—have that chance before we give it up?

Author Bell Hooks says it quite evocatively.<sup>34</sup> She points out that black folks have always been behind. White folks have given up patriarchy a long time ago and black people are still trying to get to it.<sup>35</sup> I think she was wrong about saying white folks had given it up. But I take her larger point.

So one question is, how can we turn class conflict into a strategy for projecting change? Just think about that. Another related question along the racial angle is, as we've been sort of discussing, is that in many communities of color, there's a lot of respect for family work as important political work. Joan picks up on this theme in her book.<sup>36</sup>

I oftentimes tell my students my mother was a housewife. While she stayed home and cared for me, my sister and my father, she desegregated the schools here in Montgomery County, desegregated the apartment complexes in our neighborhood, started Head Start, and registered women and black people to vote. That was her "housework." We all ate pizza, as you can imagine.

But that's a different image, I think, from the image that a lot of mainstream feminists have generated that represents the heterosexual family as an oppressive gender factory.

So, related to how we could tap class conflict as a strategy for gender change are the ways we can tap communities of color for increasing respect for family work, as a strategy for gender change, as well.

LUCIE WHITE: If I could just put a word in again. In the last interchange, I guess the challenge was made with respect to whether or not it's realistic to talk about the Swedish model in the context of the racial history, and politics of the United States.

I simply wanted to say, I've been doing a lot of work over the last two years trying to look as closely as possible comparatively at

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34. BELL HOOKS, *KILLING RAGE: ENDING RACISM* 77-85 (1995); BELL HOOKS, *AIN'T I A WOMAN? BLACK WOMEN AND FEMINISM* 87-117 (1981).

35. *See id.* at 83 (discussing how conservative black leaders display their sexist views and advocate for a reformed patriarchal society).

36. *See* UNBENDING GENDER, *supra* note 28, at 175 (contrasting this African-American view with the white tradition that "tends to belittle family work as part of the just-a-housewife syndrome").

different national regimes of subsidizing child care, from the perspective of the most marginalized people in those societies.

I'm working right now with a human rights lawyer in Sweden who represents people of color in Sweden who are basically cut out of the subsidy system there. I think it is just critical, critical for us now, as we're dealing with these very fast moving dynamics of the global economy, that's shifting the way that race figures everywhere, that we don't idealize these subsidy models that might or might not have worked for a brief blip of time in the postwar era in a few northern European countries.

I don't think anywhere, particularly in the industrial world, there exist the subsidy models that will solve the problem of care in a way that is equitable around race and class lines these days.

I actually think just one further thing. In terms of really looking closely at different sorts of instruments for subsidization, legal instruments for subsidization, in settings where there's a political will problem with respect to redistribution, or there's not much money in the domestic economy to redistribute.

The notion of trying to build, and this was what I think the comments that came up in the panel were about, like Marion and Bonnie particularly, and the way that networks of caring have really been the ways that people have coped. Not just in settings of adversity, but in order to provide good care, period, you know?

I think a lot more attention is being paid among people who are trying to design child care subsidy systems at the state level and at the local level, really trying to work with the dollars to work better.

A lot more attention is being paid now to taking those networks of caring seriously, and then trying to figure out how to better resource and subsidize all the pieces of them, so they can begin to expand to become the norm for the entire community.

You are seeing that in North Carolina with the Smarts. You're seeing it all over the place, in the local and state child care advocates, the people who are really working with the fine print of the laws.

The direction that you're increasingly seeing people moving in is this one. Which is really not captured by the categories that we, as feminist academics, typically frame the issues. So, just—

SPEAKER: I just want—those comments about the systems in Sweden and France. I think both the panel and this lady in this row here misconceive those policies there. Nations like France haven't increased their populations since the 1920s by any significant amount.

Sweden is a country with a very large economy that only has nine

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million citizens. So the motivation there is not so much, generally, quality as it is to promote marrying and child rearing, because those populations of those countries have not increased in the past several decades. So I just wanted to make that point.

Can I make one more question to the panel on a different topic? Okay. A lot of remarks being made here address the issue of how heterosexual couples could equally share child care responsibilities so that both parents can pursue careers outside the home, or at least have that opportunity.

But the household with children is therefore characterized as an economic prison, particularly for women. But for members of the queer community, as well as heterosexuals who do not wish to be parents, the household with children is actually a status symbol that they cannot obtain, either because they don't want to have children, or they aren't able to have children.

Certainly for people in the queer community, there's a lot of barriers to having children, bars against adoption. The FDA is trying to prevent gay men from donating sperm. There's a lot of different issues going on that prevent gays and lesbians from becoming parents.

So, I was wondering if we can achieve the society where a person's proliferation activities or inactivities are not a factor in determining their status. If so, is it necessary to first achieve equality within the heterosexual household before moving on to that?

PROFESSOR ROSS: There have been profound legal changes in the last decade all over the country at the state level that have been very helpful in promoting the ability of gays and lesbians to become parents, and to retain parenting rights when a relationship breaks up.

Even though as a society we're not willing as a society to legally recognize gay marriage, we recognize that a gay couple can have a child, both be parents, have visitation rights, and have support obligations.

Increasingly. Not absolutely. Not in Virginia.<sup>37</sup> We have a federal system. But that's the direction in which the law seems to be moving. It's certainly the direction that legal scholarship endorses.<sup>38</sup> Courts in

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37. See *Piat v. Piat*, 499 S.E.2d 567, 570-71 (Va. App. 1998) (awarding custody to father after analysis of mother's homosexual post-separation conduct and "unstable" condition).

38. See David Chambers & Nancy Polikoff, *Family Law and Gay and Lesbian Family Issues in the Twentieth Century*, 33 FAM. L.Q. 532, 533 (1999) (explaining that homosexual parents must struggle for custody and visitation rights due to their sexual orientation); William N. Eskridge, Jr., *Multivocal Prejudices and Homo Equity*, 74 IND. L.J. 1085, 1095 (1999) (describing the unfair presumptions made against

New York and Massachusetts have moved very much in that direction.<sup>39</sup>

So, just as we used to say that children and women had different political agendas, instead of saying the gay community has a different agenda than the heterosexual community, in terms of work and family life, we need to keep clearly in focus that a lot of heterosexuals also don't have children for a variety of reasons.

Everybody benefits from more fluid gender divisions, and from a work place that is more amenable to personal life.

Valuing children is not incompatible with saying that gays also don't have to work 100 hours a week. I don't think anybody is suggesting that the heterosexuals with children get a different deal at work for equal pay. Obviously, that's one of Joan's big agenda items: to make things fair all the way around.

PROFESSOR DOWD: I guess my feeling would be that again, this is my argument that we ought to look to the most marginalized groups in order to sort of check out our strategies and also our priorities.

So it seems to me that there are both lines of connection as well as some issues, I think, within the gay and lesbian community about the creation of family ties, the recognition of family ties, the valuing of partnerships, and of their parenting, that don't tend to be questioned for heterosexuals.

But of course, then there are parallels in terms of other mothers and fathers who are questioned as to whether they are good parents when they don't fit within that two parent heterosexual white norm.

So I think there are links, and there are also differences. But my sense of this would be that, again, this is another way in which we need to look to the margins, so to speak, or to those who have been marginalized, because that will tell us a lot about whether, intentionally or unintentionally, we're carrying a norm in our head.

I think a lot of what this panel has said and a lot of what Joan has said, is whether, intentionally or unintentionally, we have tended to speak from a particular norm when we talk about work and family.

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lesbian, gay and bisexual parents).

39. New York has been relatively liberal and has granted rights to same sex couples in some adoption and custody matters. *See generally* Vincent C. Green, Note, *Same-Sex Adoption: An Alternative Approach to Gay Marriage in New York*, 62 BROOK. L. REV. 399, 417 (1996) (reviewing the legal history of same-sex couples and child custody issues); Katherine Young, *The Supreme Judicial Court of Massachusetts Gives Unmarried Couples Standing to Petition to Adopt Children, But Is This Really an Endorsement of Non-Traditional Families?*, 2 SUFFOLK J. OF TRIAL & APPELLATE ADVOC. 41, 51-52 (1997) (discussing the implications and precedent of *In re Tammy*, 416 Mass. 205, 617 N.E.2d 315 (1993)).

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That's not a good thing for us to be doing.

One other thing about your comment on Sweden and France. My sense when I looked at this was that I think you are right to look at why those policies are in place. In France, it very much has been a replacement of population concern. Almost, let's make sure that people stay home and create family, and that family is well supported. Let's sort of pull people out of work.

In Sweden, the original impetus was a need for more workers. So let's provide some of those benefits and policies, because we need a labor supply. Oh, there's women at home. Let's see if we can't get them to come in.

Neither one of them comes from an equality goal. So, you're absolutely right. That's not why they were generated.

PROFESSOR DILL: I want to respond to a question that you raised, Adrienne. I was thinking a little about the question whether we can use the kind of community work, and political work, that has characterized family work in communities of color as a strategy for gender change.

I was thinking about that in relationship to the single mothers that I interviewed. I was also thinking about that in relationship to what Nancy said, because I really like her notion about starting by looking at the margins to see whether or not these things really make a difference.

I think that in some ways there are seeds there for gender change, that if we were to kind of step back and think about gender change from that part of the society, rather than from where we sit down, we might see that.

One of the things I was thinking about was, of course, one of the things that has come up, of course, in all of the welfare repeal legislation. It is this whole thing about, in one way or another, kind of marry them off, you know? I mean, just to summarize it.

That was an idea, actually, that had been put out there earlier in some of the work of William Julius Wilson,<sup>40</sup> where he had talked about the small pool of marriageable men. I talked with women about that, about getting married, and kind of what they were looking for, and what they wanted.

Women—I mean, people, they were not rushing to get married. Clearly, what they saw in terms of the pool of marriageable men in their communities were not people that they necessarily wanted to

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40. See WILLIAM J. WILSON, *WHEN WORK DISAPPEARS: THE WORLD OF THE NEW URBAN POOR* (Knopf, 1996).

marry, because they didn't have jobs. They didn't see any point in marrying someone who was not going to help them out with jobs. You know, help them out, financially.

But also I think that kind of reinforces traditional notions. But by the same token, I think they were also critical about at least the nature of those relationships for women, because they also saw them as being relationships of power and control. They did not want to be controlled in that way. They saw marriage as kind of entering into that.

Thus, I think that there is on the one hand a kind of recognition of kind of the importance of family, but also a critical stance on women by women about what happens to women in heterosexual marriages that could be built upon, developed, expanded, explored, and supported in some way, so that gender relations could be re-formulated.

Because I think people are thinking about this, really. They may not be thinking about it in the same terms that, you know, scholars think about it. But they are thinking about it. Many of the women that I interviewed would like a relationship with someone that was more equal, in the sense of resources that are brought in.

But also in the sense of duties and expectations. "Parent," as Joan kind of talks about: parental sharing. So, I just wanted to say—

SPEAKER: There's a piece missing from your description there, which is also, how do these men, who are not viewed as good marriage material, feel? They would also get a lot out of reorganizing gender, as well as from a job market. But, just to bring the men back into the discussion.

PROFESSOR CRAIN: I want to pick up on something else that Adrienne asks that is related, very related to this. She asked, how would we turn class conflict into a force for gender change? Or alternatively, a force for racial change? Or both, hopefully?

That's a question I worry about a lot. It seems to me that the only way to address this is to get down to brass tacks. We talk about it at a theoretical level, and I agree with everything that's being said. But what do we *do* about this?

The next question I think of is, what is the site for this? Where is the best site to locate this kind of change first? Multiple sites, yes. But, where first?

Traditionally, class conflict has been sited in the work place. That is what unions are all about. The theory was that people will have some kind of common cause, their working conditions, for example, that they can organize together around. Then if there are gender



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issues, or racial issues, you can bring that into the organizing effort, and address those too. Although they sometimes come in very tangentially.

That was the theory of it. I've heard this theory in feminism, too, that the appeal is more effective when it's concrete and situated in the workplace. The way to get women to join feminism is, instead of asking them, "are you a feminist," you say, "do you support equal pay?" Or, "are you against sexual harassment in this work place?" "Let's do something about this together."

That's a very effective strategy. But it leaves out these huge groups of people. For example, it's no use organizing people in the work place if they don't have jobs. You're not going to reach the group of people who are unemployed. You don't reach the people who aren't really employees, so they're not covered under labor laws. Or they're seasonal, or they're casual employees. Who are these people? Disproportionately, poor people. Disproportionately people of color, especially undocumented workers.

The most successful organizing efforts that I've been able to find and try to study empirically are the community-based organizing efforts.<sup>41</sup> I think that tracks directly with what we're talking about, and with Lucie's comments about where these subsidies should come from. If we're going to come up with some subsidy program, where should it be based? It also tracks with what Bonnie was saying about, where you find effective child care. Whom can you trust to bring the right values to your children?

It's the same question. Whom can you trust? It's the people in your community that you tend to trust. So, communities seem to me like the best sites for change, tied, in particular situations, to work places or to other concrete sites. It depends on where the inequality is that you're trying to address at that moment. But it's very much a ground-up kind of approach.

PROFESSOR DAVIS: We're running a little bit over. But I saw Nancy Polikoff wanted to ask something. Did you want to ask something too, Ann?

PROFESSOR SHALLECK: Yes, but Nancy was first.

PROFESSOR DAVIS: Well, you two can both ask the questions, then we'll let the panelists respond.

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41. See, e.g., Jennifer Gordon, *We Make the Road by Walking: Immigrant Workers, The Workplace Project, and the Struggle for Social Change*, 30 Harv. C.R.-C.L. L. Rev. 407 (1995) (describing community-based immigrant worker advocacy and organizing efforts); Virginia P. Coto, *LUCHA, The Struggle for Life: Legal Services for Battered Immigrant Women*, 53 U. Miami L. Rev. 749 (1999) (describing community-based organization dedicated to educating and organizing of battered immigrant women).

PROFESSOR POLIKOFF: I'm going to just say something. It's good to follow what Marion just said, because it was really in response to Marion, and Bonnie, and a little bit to Lucie.

Which is that, who do we think these people are in these families who are providing care? Perhaps we are all victims of what our own personal experiences are, and those of our friends. But I learned very recently from a friend who has a professional job, but grew up in a lower working class family, where relying on family was what people did.

Ten years ago, for a two year period, her daughter was in the care of extended family members, because she never used paid care, because she'd had those values. This is a woman who came out of the Violence Against Women movement, who knows everything about male violence.

It turned out that her daughter was being sexually abused by a teenage boy in that extended family unit. I think that before we think that family care is the direction to go on, we have to think about who it is, then, who has contact with the children. Whether we think that male violence against women and girls is part of the norm, or some aberration, so that we can structure our whole system as though men were not violent.

Unless we can figure that out, I don't know that we can actually talk about putting children in the care of family, until we have the thing about men being men, and boys being violent, and men being sexual predators, worked out.

PROFESSOR SHALLECK: I actually had a strategic reason for having Nancy go first, which was, I had two questions I wanted to ask, and I knew Nancy would ask at least one of them.

The other question I wanted to raise was whether or not you thought we should flip this delegation model on its head. We've been talking about delegation from a norm of parental care, to other sites, to the market, to other family members, through subsidies to the state.

Whether or not it's perhaps preferable to adopt the approach that Martha Fineman has been developing.<sup>42</sup> That we really need to think about the norm of parental care, particularly care within a two parent, heterosexual, married family, as a delegation. As an implicit delegation. As an implicit delegation from state and society to the family as the primary site for caring for dependents. Not just for

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42. See MARTHA FINEMAN, *THE ILLUSION OF EQUALITY: THE RHETORIC AND REALITY OF DIVORCE REFORM* 180-84 (Univ. of Chicago Press, 1991).

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child care, but for all dependent care.

That that's happened through complex processes, and historical processes. But we need to understand that. If that helps us, or confuses us, I'm not sure which it does, in sort of reconceptualizing in this notion of who's the delegator, and who's the delegatee.

PROFESSOR DAVIS: Our panelists are all scribbling. Does anyone want to address this?

PROFESSOR DILL: Well, I just want to say, I don't want to idealize. I don't want to sound like I'm idealizing family care. I mean, the reality is that children in many of these families are already in family care.

So, one of the questions is, is there a way to support, enhance, and improve that kind of family care that those children are getting? Not so much saying that, you know, is family care now the thing that we're going to do for everybody? But to recognize that that's where a lot of children are, and then to try to figure out some ways to enhance and improve that. To give people training.

I used to think in one of these communities that I was working in, it struck me that if a couple of the mothers who were really child-oriented or whatever, were paid, you know? If they got paid to be the child care people for these communities, and they got trained. They did all that kind of stuff that people did in Head Start, and you know, learned all this stuff, and it was wonderful. Or they thought it was wonderful, or whatever.

That would really address a lot of the problems. The other mothers really could—those who wanted to go out to work could go out to work. Those who wanted to stay with the children could stay with the children. It would be a community kind of solution. It would be one that had some kind of monitoring, and could address some of the issues that you were concerned about, about violence.

The other thing I would say, too, is that Linda Burton's work on early grandparents also points out that a lot of these people that we think are care takers, are not. Because with early grandparents, they're still—those women are still very much in the labor force, and they're not available. So there's a whole generation of people.

I was talking about rural communities. There's a whole generation of people in urban communities, particularly where you know, that generation of people to care for the children is not there. So, clearly family care is not going to be the solution in that case, either.

PROFESSOR CRIAN: To add to that, and sort of respond to the great question that Ann Shalleck just asked, "Isn't the state really delegating the care out to the families?" Yeah. Obviously, it is. I'm

totally persuaded by Martha Fineman's point there.<sup>43</sup>

I guess the easiest way to see that, if you're not persuaded, is to think about how the same thing happens with the elderly. I've observed in the last twenty years—and it's probably been a longer term issue—the same kind of networks of care functioning for the elderly.

If you talk to people who are dealing with elderly parents who are ill, they don't want to pull them out of their communities even if the children, the adult children, have moved away, and it would be more convenient to have the parent with the adult children.

It's not just that the parent has friends in that community. It's that they have people who go and get groceries for them, and who take them to the doctor. Who are there for them during the illness, to do the day-to-day, necessary things.

That to me clearly is also a case of the state delegating its obligations to care for the elderly away to families, or in this case, to the community. So, I'm persuaded by that model. I like the question.

PROFESSOR DAVIS: Thank you all very, very much. Thanks to the audience for being so engaged with all of this.

(Whereupon, the PROCEEDINGS were adjourned.)

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43. See Martha Fineman, *Masking Dependency: The Political Role of Family Rhetoric*, 81 VA. L. REV. 2181, 2205 (1995) (describing the state's reliance on the family to bear the burdens of dependency in lieu of the state).