

Feminism for Everyone

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Every idea has its time. Joan Williams's idea is that we need to reframe debates about work and family by paying attention to how our gender system of domesticity harms everyone: women, men, privileged Americans, and working-class people. Williams defines domesticity as the gender system that organizes market work and family work around traditional gender roles through a set of entrenched narratives and institutional arrangements.¹ Her basic argument is that to achieve more family-friendly public policy in the United States, feminists and advocates need to pay attention to the impact of domesticity on men and working-class people as well as privileged women. In Williams's view, we also need to be more sophisticated about politics.

Like her formidable body of work on the subject, Williams's new book, *Reshaping the Work-Family Debate: Why Men and Class Matter*,² has a lot to say about the harms of domesticity for women. Yet her latest contribution to the subject signals a reorientation of priorities. The cover makes her point clearly: we see an image of a sweatshirt-clad, unshaven white man looking into the eyes of a young white boy, presumably a father and son. Is this a working-class man saying goodbye to his son before leaving for a blue-collar job? Or is it a laid-off Wall Street investment banker newly discovering the joys of fatherhood? The point is this: it does not matter, for the financial crisis of 2008 increasingly leveled the playing field between the two. Joan Williams's timely book seeks to harness this potential alignment of working-class and elite interests to further advance her lifelong project of disrupting separate-spheres ideology and creating more family-friendly workplaces in America.

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1. See, e.g., Joan Williams, *Toward a Reconstructive Feminism: Reconstructing the Relationship of Market Work and Family Work*, 19 N. ILL. U. L. REV. 89, 89–90 (1998).

2. JOAN C. WILLIAMS, *RESHAPING THE WORK-FAMILY DEBATE: WHY MEN AND CLASS MATTER* (2010).

In this Essay, I offer an assessment of Williams's apparent reorientation in strategy: her decision to focus on masculinity and class in framing the problem of work and family conflict. Part I describes the book, reviewing its main theoretical and strategic innovations. Part II teases out the intellectual underpinnings of Williams's book, including Marxist-socialist inspired feminism and philosophical pragmatism. Part II also explores the reasons why this is the perfect moment for Williams's ideas and arguments, both in legal feminism and in national policy debates about work and family issues. Part III suggests that attention to the structural, macroeconomic issues contributing to work and family conflict might take Williams's analysis even further.

I. THE ROAD TO *RESHAPING THE WORK-FAMILY DEBATE*

Now, more than ever, is Joan Williams's moment. Historically, gender was the primary lens through which legal feminism analyzed the problem of women's workplace inequality. Feminists disagreed about strategy,³ but gender was the focus. Beginning roughly in the 1990s, this relatively unified theoretical perspective began to break down as feminists paid increased attention to other types of diversity. Antiessentialism emerged as a robust working rubric as divisions within legal feminism developed over race and other axes of identity.⁴ More recently, the national debate over same-sex marriage, the emergence of queer theory as an independent intellectual movement in law, and the global economic crisis have made even more encompassing perspectives possible. Today, masculinity,⁵ sexuality,⁶ and class⁷ are as important as gender and race in legal feminist analysis.

3. Compare Linda J. Krieger & Patricia N. Cooney, *The Miller-Wohl Controversy: Equal Treatment, Positive Action and the Meaning of Women's Equality*, 13 GOLDEN GATE U. L. REV. 513, 517–18 (1983) (arguing for the accommodation of pregnancy in the workplace), with Wendy W. Williams, *Equality's Riddle: Pregnancy and the Equal Treatment/Special Treatment Debate*, 13 N.Y.U. REV. L. & SOC. CHANGE 325, 351–80 (1985) (defending the "equal treatment" approach for pregnancy and other characteristics unique to one sex). See generally Ruth Milkman, *Women's History and the Sears Case*, 12 FEMINIST STUD. 375 (1986) (summarizing conflicting expert testimony on women's relationship to work by opposing feminist historians in the historically significant class-action sex discrimination case, *EEOC v. Sears*, 839 F.2d 302 (7th Cir. 1988)).

4. Kimberle Crenshaw, *Race, Gender, and Sexual Harassment*, 65 S. CAL. L. REV. 1467 (1992); Evelyn Nakano Glenn, *Cleaning Up/Kept Down: A Historical Perspective on Racial Inequality in "Women's Work"*, 43 STAN. L. REV. 1333, 1336–1353 (1991); Tanya Kateri Hernández, *A Critical Race Feminism Empirical Research Project: Sexual Harassment & the Internal Complaints Black Box*, 39 U.C. DAVIS L. REV. 1235, 1255–57 (2006).

5. See, e.g., ANN C. MCGINLEY, *MASCULINITIES AND THE LAW AT WORK: INTERPRETING EMPLOYMENT DISCRIMINATION LAW* (N.Y. Univ. Press, forthcoming 2012); Ann C. McGinley, *Work, Caregiving, and Masculinities*, 34 SEATTLE U. L. REV. 703 (2011).

6. See, e.g., FEMINIST AND QUEER LEGAL THEORY: INTIMATE ENCOUNTERS, UNCOMFORTABLE CONVERSATIONS *passim* (Martha Albertson Fineman, Jack E. Jackson & Adam P.

Through all of these shifts, Joan Williams has remained a tireless advocate for restructuring societal institutions to address the tension between market and family work. Structural critiques of gender and economic inequality like Williams's have not been particularly influential in law or politics in the United States for at least thirty years.⁸ American constitutionalism addresses economic inequality only weakly and indirectly.⁹ Neoliberalism¹⁰ and evolutionary biology,¹¹ ascendant in law while Williams was developing her ideas, naturalize economic and gender inequality. And yet Williams spearheaded a legal strategy to deploy her vision on the ground, theorizing,¹² securing grant funding for,¹³ and implementing a litigation and public education campaign to end employment discrimination against family caregivers. Through the Center on WorkLife Law at Hastings Law School,¹⁴ which Williams founded, she has developed legal theories¹⁵ enabling plaintiffs to recover for dis-

Romero eds., 2009); Francisco Valdes, *Queers, Sissies, Dykes, and Tomboys: Deconstructing the Conflation of "Sex," "Gender," and "Sexual Orientation" in Euro-American Law and Society*, 83 CALIF. L. REV. 1, 343–77 (1995).

7. See, e.g., Lucy Williams, *Poor Women's Work Experiences: Gaps in the 'Work/Family' Discussion*, in LABOUR LAW, WORK, AND FAMILY: CRITICAL AND COMPARATIVE PERSPECTIVES 195 (Joanne Conaghan & Kerry Rittich eds., 2005); Nancy E. Dowd, *Bringing the Margin to the Center: Comprehensive Strategies for Work/Family Policies*, 73 U. CIN. L. REV. 433, 435–42, 447–49 (2004); Laura T. Kessler, *Getting Class*, 56 BUFF. L. REV. 915, 915–27 (2008); Michael Selmi & Naomi Cahn, *Women in the Workplace: Which Women, Which Agenda?*, 13 DUKE J. GENDER L. & POL'Y 7 *passim* (2006).

8. See JOHN MICKLETHWAIT & ADRIAN WOOLRIDGE, *THE RIGHT NATION: CONSERVATIVE POWER IN AMERICA* 71–128 (2004); Martha T. McCluskey, *Thinking with Wolves: Left Legal Theory After the Right's Rise*, 54 BUFF. L. REV. 1191, 1194–95 (2007).

9. CASS R. SUNSTEIN, *THE SECOND BILL OF RIGHTS: FDR'S UNFINISHED RESOLUTION AND WHY WE NEED IT MORE THAN EVER* 4–5, 105–08 (2004); Martha Albertson Fineman, *The Vulnerable Subject: Anchoring Equality in the Human Condition*, 20 YALE J.L. & FEMINISM 1, 3–4 (2008).

10. For a set of critiques of neoliberalism, see FEMINISM CONFRONTS HOMO ECONOMICUS (Martha Albertson Fineman & Terence Dougherty eds., 2005).

11. See, e.g., Kingsley R. Browne, *Sex and Temperament in Modern Society: A Darwinian View of the Glass Ceiling and the Gender Gap*, 37 ARIZ. L. REV. 971, 985–1064 (1995); Richard A. Epstein, *Gender is for Nouns*, 41 DEPAUL L. REV. 981, 990 (1992); Lawrence H. Summers, President, Harvard Univ., Remarks at NBER Conference on Diversifying the Science & Engineering Workforce (Jan. 14, 2005), http://president.harvard.edu/speeches/summers_2005/nber.php.

12. See Joan C. Williams, *Beyond the Glass Ceiling: The Maternal Wall as a Barrier to Gender Equality*, 26 T. JEFFERSON L. REV. 1, 1 (2003); Joan C. Williams & Nancy Segal, *Beyond the Maternal Wall: Relief for Family Caregivers Who Are Discriminated Against on the Job*, 26 HARV. WOMEN'S L.J. 77, 77–79 (2003).

13. See, e.g., ALFRED P. SLOAN FOUND., 2008 ANNUAL REPORT 86–87 [hereinafter 2008 SLOAN ANNUAL REPORT], available at http://www.sloan.org/assets/files/annual_reports/2008_annual_report_vf.pdf; ALFRED P. SLOAN FOUND., 2006 ANNUAL REPORT 42 [hereinafter 2006 SLOAN ANNUAL REPORT], available at http://www.sloan.org/assets/files/annual_reports/2006_annual_report.pdf.

14. See *About Us*, CTR. FOR WORKLIFE LAW, <http://www.worklifelaw.org/AboutUs.html> (last visited Feb. 23, 2011).

15. See Williams & Segal, *supra* note 12, at 123.

crimination on the basis of their caregiver status,¹⁶ created model human-resources policies for employers,¹⁷ developed a program to help law firms recruit and retain attorneys by offering meaningful reduced-hour schedules,¹⁸ and convened a group of social scientists and lawyers to produce studies documenting workplace bias against adults with family responsibilities.¹⁹ Indeed, she “has been instrumental in founding a new field in social psychology focused on bias experienced by mothers as opposed to women in general.”²⁰

In sum, Williams’s extraordinary contributions to the work-family field and feminism more generally have been twofold. First, as Kathryn Abrams has previously observed,²¹ Williams demonstrates that the problem of work-family conflict in America is more than simply a policy failure. The problem is not merely that we need more public supports for family care work such as subsidized child care and parental leave or expanded worker rights to flextime and comparable worth for part-time jobs. We do need all of those things. However, Williams has a larger point: for any meaningful progress to occur, we must disrupt the gender system of domesticity, which organizes market work around the ideal worker who works full time and marginalizes family caregivers. As such,

16. See, e.g., *Back v. Hastings on Hudson Union Free Sch. Dist.*, 365 F.3d 107 (2d Cir. 2004) (ruling that stereotyping of women as caregivers constitutes gender-based discrimination); *Walsh v. Nat’l Computer Sys., Inc.*, 332 F.3d 1150 (8th Cir. 2003) (declining to overturn jury verdict in a Title VII action when employee showed it was her potential for becoming pregnant in the future that catalyzed the discrimination); *Knussman v. Maryland*, 272 F.3d 625 (4th Cir. 2001) (holding that employer discriminated by denying primary-caregiver status to employee based solely on his gender); *Santiago-Ramos v. Centennial P.R. Wireless Corp.*, 217 F.3d 46 (1st Cir. 2000) (holding that evidence of discrimination based on worker’s planned second pregnancy was sufficient to show that reasons for firing were pretextual); see also *Shafer v. Bd. of Pub. Educ.*, 903 F.2d 243 (3d Cir. 1990); *Garcia v. Monument Mgmt. Grp., LLC*, No. 4:05 CV 3139, 2006 WL 1401713 (D. Neb. May 19, 2006); *Plaetzer v. Borton Auto., Inc.*, No. Civ.02-3089 JRT/JSM, 2004 WL 2066770 (D. Minn. Aug. 13, 2004); *Lust v. Sealy, Inc.*, 277 F. Supp. 2d 973 (W.D. Wis. 2003), *aff’d*, 383 F.3d 580 (7th Cir. 2004); *Trezza v. Hartford, Inc.*, No. 98 CIV. 2205 (MBM), 1998 WL 912101 (S.D.N.Y. Dec. 30, 1998); *Lopez v. Bimbo Bakeries USA, Inc.*, No. CGC-05-445104, 2007 WL 1765192 (Cal. Super. Ct. May 22, 2007), *aff’d*, Nos. A119263, A119720, 2009 WL 1090375 (Cal. App. 1 Dist. Apr. 23, 2009); *Fredrickson v. Noble Ventures, LLC*, No. A05-1107, 2006 WL 696471 (Minn. Ct. App. Mar. 21, 2006).

17. See CTR. FOR WORKLIFE LAW, SAMPLE POLICIES ON FAMILY RESPONSIBILITIES DISCRIMINATION FOR MANAGEMENT POLICY MANUALS, <http://www.worklifelaw.org/pubs/WorkLifeLaw-SampleFRD-PoliciesForManagemenManual.pdf> (last visited Mar. 5, 2011).

18. See CTR. FOR WORKLIFE LAW, PROJECT FOR ATTORNEY RETENTION, <http://www.pardc.org/> (last visited Feb. 26, 2011).

19. See 2006 SLOAN ANNUAL REPORT, *supra* note 13, at 42.

20. *Id.*; see also Joan C. Williams, *Litigating the Glass Ceiling and the Maternal Wall: Using Stereotyping and Cognitive Bias Evidence to Prove Gender Discrimination*, 7 EMP. RTS. & EMP. POL’Y J. 287, 287–88 (2003).

21. See Kathryn Abrams, *Cross-Dressing in the Master’s Clothes*, 109 YALE L.J. 745, 746 (2000) (reviewing Williams’s book, *UNBENDING GENDER* (2000)).

Williams's work constitutes a visionary challenge to both gender ideology and free-market thinking.

Second, Williams's work represents a methodological innovation in her simultaneous vision of radical transformations and incremental changes. Through her academic writings, the Center for WorkLife Law, popular books,²² and blogs,²³ she has made her theories available in a language which is that of both an activist and an academic. Indeed, Williams has literally created a new vocabulary for understanding the complex problem of work and family conflict. For example, Williams coined the term "ideal worker norm," which has appeared in newspapers and journal articles all over the world.²⁴ In short, she seeks nothing less than to transform the very way we talk about work and family conflict in America.

Reshaping the Work-Family Debate,²⁵ the book that is the subject of this Colloquy, further develops these innovations. The book lays out a three-part strategy for reshaping the work-family debate in America. First, Williams argues we must challenge the unspoken framework that shapes how we discuss work-family conflict. Toward that end, she interrogates the popular "opt-out" narrative,²⁶ which suggests that women's private choices explain their underrepresentation in the jobs of greatest status, rewards, and responsibility in our economy.²⁷ She also demon-

22. JOAN WILLIAMS, *UNBENDING GENDER* (2000).

23. See, e.g., WORKLIFE L. BLOG, <http://worklifelawblog.blogspot.com/> (last visited Feb. 26, 2011); Joan Williams, HUFFINGTON POST, <http://www.huffingtonpost.com/joan-williams> (last visited Feb. 26, 2011).

24. See, e.g., Robert Drago, Mark Wooden & David Black, *Long Work Hours: Volunteers and Conscripts*, 47 BRIT. J. INDUS. REL. 571, 572 (2009); Elizabeth K. Kelan, *Gender Fatigue: The Ideological Dilemma of Gender Neutrality and Discrimination in Organizations*, 26 CAN. J. ADMIN. SCI. 197, 198 (2009); Adriana Barton, *You Take the Kids. My 12 Hours Are Up*, GLOBE & MAIL (Can.), Jan. 25, 2010, at L1; Ellen Goodman, *A Third Gender in the Workplace*, BOS. GLOBE, May 11, 2007, at A17; Ellen Goodman, *Inequitable Employers Make Motherhood an Even Tougher Job*, CHINA DAILY (North American ed.), May 11, 2007, at 11; Andy Ho, *Give Women the Right to Ask Bosses for Flexi-Work; Baby Bonuses Alone Will Not Encourage Women to Have More Children*, STRAITS TIMES (Singapore), Aug. 25, 2009, <http://www.asiaone.com/print/Business/Office/Learn/Out%2BOffice/Story/A1Story20090826-163613.html>; Tapu Misa, *Looking After the Kids Is a Proper Job Too*, N.Z. HERALD, Apr. 19, 2010, at A11; Belinda Olivares-Cunanan, *Upgrading Filipino Standards in Hawaii*, PHIL. DAILY INQ., Sept. 21, 2006, at A13; Amelia Rayno, *For Some Moms, Baby Gap = Pay Gap; While Family Dynamics Have Changed, Damaging Stereotypes Remain*, STAR TRIBUNE (Minneapolis), Nov. 14, 2010, at E1; Jill Jordan Spitz, *How Working Moms Can Make It Work*, ARIZ. DAILY STAR, July 18, 2010, at D1; Julia Stirling, *Pay Inequality the Reason Women Earn Less*, AUSTRALIAN, July 10, 2010, at 2.

25. WILLIAMS, *supra* note 2.

26. See, e.g., Lisa Belkin, *The Opt-Out Revolution*, N.Y. TIMES MAG., Oct. 26, 2003, at 42, available at <http://www.nytimes.com/2003/10/26/magazine/26WOMEN.html>. For more on the opt-out narrative and its impact on men, see Beth A. Burkstrand-Reid, "Trophy Husbands" & "Opt-Out" Moms, 34 SEATTLE U. L. REV. 663 (2011).

27. See WILLIAMS, *supra* note 2, at 12-41.

strates the harsh realities of working-class families for whom opting out of work is not an option.²⁸ In this regard, she joins others, including myself, who have demonstrated how the opt-out narrative obscures the structural causes of women's inferior attachment to the workforce.²⁹

Second, Williams seeks to challenge the way we talk about gender when discussing work and family conflict. Here, Williams moves beyond her earlier work on domesticity to more explicitly examine the role of masculinity in producing a gender system that harms both women and men. According to Williams, "masculine norms underlie the social structures within which both men and women negotiate their daily lives."³⁰ As others have explored,³¹ Williams argues that masculine norms create workplace pressures that make men reluctant or unable to contribute significantly to family life,³² and they backfire for women in the form of a double-bind, which punishes women whether they conform with masculine workplace ideals or adopt a more feminine identity at work.³³

Finally, Williams suggests that we need to shift away from a focus on gender and pay more attention to class dynamics if we are to make any headway in reshaping America's system of family supports. This shift will require us to understand class in new ways. Williams offers two innovations in this regard. First, she suggests that we need to focus not just on the poor, but also on the "Missing Middle"³⁴—Americans who are "one sick child away from being fired."³⁵ Second, Williams asks us to see class divisions as a cultural problem as much as an economic one. She sees a gaping cultural rift between white working-class and professional-managerial class Americans that needs to be addressed, and she describes the rift in poignant detail. She argues that in order to recreate the New Deal coalition between workers, African Americans, and professional elites, we need to change the dynamics of everyday politics

28. *Id.* at 42–76.

29. See Laura T. Kessler, *Keeping Discrimination Theory Front and Center in the Discourse over Work and Family Conflict*, 34 PEPP. L. REV. 313, 322–31 (2007). Specifically, workplace culture, insufficient family leave, overt and subtle sex discrimination, the gendered division of labor within the family, modern intensive mothering standards, wage discrimination, welfare policy, and tax policy all provide more plausible explanations for women's apparent "preference" for lower-status, lower-paying jobs than the opt-out narrative. *Id.*

30. See WILLIAMS, *supra* note 2, at 5.

31. See, e.g., Martin H. Malin, *Fathers and Parental Leave*, 72 TEX. L. REV. 1047, 1064–80 (1994); Michael Selmi, *Sex Discrimination in the Nineties, Seventies Style: Case Studies in the Preservation of Male Workplace Norms*, 9 EMP. RTS. & EMP. POL'Y J. 1, 30 (2005).

32. See WILLIAMS, *supra* note 2, at 79–91.

33. *Id.* at 91–103.

34. *Id.* at 156, 160–61 (drawing on THEDA SKOCPOL, *THE MISSING MIDDLE: WORKING FAMILIES AND THE FUTURE OF AMERICAN SOCIAL POLICY* (2000)).

35. *Id.* at 42.

through cross-class cultural understanding and gestures of mutual respect.

II. READING *RESHAPING THE WORK-FAMILY DEBATE* AS A VISIONARY FEMINIST TEXT

Reshaping the Work-Family Debate does not present itself as a feminist text. Only one chapter is dedicated to feminism.³⁶ In the introduction, Williams asserts that the book is about “reframing American politics.”³⁷ Every chapter discusses examples of work and family tensions experienced by men and women. Most chapters also incorporate the perspectives of individuals from different classes and races. Williams repeatedly writes in general terms of “Americans”’ need to balance work and family life. The book contains a media content analysis of press coverage of the alleged “opt-out revolution”³⁸ among Ivy League-educated female professionals.³⁹ It discusses sociological,⁴⁰ psychological,⁴¹ political science,⁴² and economic⁴³ studies, as well as the outcomes of lawsuits⁴⁴ and union arbitration hearings.⁴⁵ The book is ambitiously aimed at a broad audience, including academics from many fields, public intellectuals, lawyers, and policymakers.

Yet hidden between the lines of Williams’s book is a powerful, sophisticated feminist critique of the gender system of domesticity or separate-spheres ideology. Here is Williams’s summary, early in the book, of the system she wishes to disrupt:

The ideology that ties together all these assumptions is called “domesticity,” or “separate spheres.” That gender system, inherited from the nineteenth century, divides daily life neatly into the mutually exclusive realms of public life and domestic life. Separate spheres imputes specific, and different, biological and psychological characteristics to men and women. Women are deemed too good for the nasty and brutish world of commerce in which men—so the story goes—thrive. From this story stems a set of interlocking assumptions: that it is natural for women to take sole responsibility for child care, that doing so fulfills women’s deepest nature and so makes them happy, that men are competitive and ambitious and thus

36. *Id.* at 109–50.

37. *Id.* at 1.

38. *See, e.g.,* Belkin, *supra* note 26.

39. *See* WILLIAMS, *supra* note 2, at 12–41.

40. *Id.* at 158–59, 162–86.

41. *Id.* at 98–100, 137–40.

42. *Id.* at 160–61.

43. *Id.* at 136–37.

44. *Id.* at 29, 127.

45. *Id.* at 42–76.

naturally suited to employment but not to caregiving, and that homemakers' economic vulnerability in breadwinner-homemaker households is no big deal.⁴⁶

This account of the problem presents a less structural perspective than Williams's earlier descriptions of domesticity in academic journals,⁴⁷ and it is not explicitly focused on the problems domesticity creates for women. Most notably, it omits her earlier references to the problems of "Western wage labor" and the "systemic impoverishment of women" caused by domesticity.⁴⁸ Yet anyone working in feminism or related critical disciplines should recognize this account as a particular strand of feminist theory. Williams links domesticity with economic inequality. By locating the primary site of subordination in the intersection of the market and the family, Williams seeks to inject into mainstream conversations on work and family a powerful insight of Marxist and socialist feminisms of an earlier era: that domesticity is a capitalist tool benefitting employers at the expense of women (and men).

Throughout her career, Williams has described this methodology as a form of philosophical pragmatism. Here, I am less interested in textbook definitions of pragmatism⁴⁹ so much as Williams's understanding of its purpose in her own work. In her voluminous writings deconstructing traditional notions of property and gender, Williams describes pragmatism as a methodology that aims to reassure that "[w]e can function without absolutes";⁵⁰ that "taps Americans' love of straight talk and use-

46. *Id.* at 4.

47. For example, here is Williams's description of the problem from her law review article, *Deconstructing Gender*, published in 1989:

Western wage labor is premised on an ideal worker with no child care responsibilities. In this system men and women workers are allocated very different roles. Men are raised to believe they have the right and responsibility to perform as ideal workers. Husbands as a group therefore do far less child care, and earn far more, than their wives. Women are raised with complementary assumptions. . . . This gender system results in the impoverishment of women, since it leads mothers to systematically "choose" against performing as ideal workers in order to ensure that their children receive high quality care. . . . The . . . impoverishment of women upon divorce, the feminization of poverty, and to some extent the wage gap between men and women, are all parts of a dynamic that leads to the systemic impoverishment of women.

Joan C. Williams, *Deconstructing Gender*, 87 MICH. L. REV. 797, 822–23 (1989).

48. *Id.*

49. Pragmatism is defined as "a movement consisting of varying but associated theories, originally developed by Charles S. Peirce and William James and distinguished by the doctrine that the meaning of an idea or a proposition lies in its observable practical consequences." AMERICAN HERITAGE DICTIONARY 1378 (2000).

50. Joan C. Williams, *Rorty, Radicalism, Romanticism: The Politics of the Gaze*, 1992 WIS. L. REV. 131, 132.

ful thought”;⁵¹ and that allows its proponent to “recognize that others may . . . not share my views,”⁵² yet “avoid[s] letting that undermine our ability to work together.”⁵³ Pragmatism, as she sees it, “is committed to . . . nonfoundationalism.”⁵⁴ These quotes suggest that Williams sees pragmatism as a politics of compromise. *Reshaping the Work-Family Debate* continues this pragmatic tradition in its call for a realignment of electoral politics by bringing right-leaning white working-class men back into the Democratic Party. Toward that end, Williams exposes the ways that masculine workplace norms harm men as well as women, and she lays out a political strategy for understanding and diffusing class disagreements over issues such as abortion, affirmative action, and same-sex marriage.⁵⁵ These interventions are undertaken with an eye toward rebuilding Democratic politics and thereby creating a favorable political environment for enabling family-friendly public policy.

The pragmatic emphasis in Williams’s book is also found in the articulation of a set of specific, well-thought-out public policy proposals aimed at reducing work and family tensions for all Americans. Williams’s proposals include high-quality, affordable child care;⁵⁶ reduced and flexible work hours;⁵⁷ elimination of tax penalties on the income of secondary wage earners in dual-income married families;⁵⁸ expansion of the types of workplace leaves currently available to cover short-term family emergencies;⁵⁹ and family-responsive overtime systems.⁶⁰ Williams’s pragmatism is also apparent in her deployment of all the social sciences as advocates for transformation of work and family arrangements⁶¹ and for the enhancement of power of women and other less privileged people in our society. Finally, Williams is a pragmatist in her avoidance of theoretical jargon inaccessible to all but a specialized aca-

51. *Id.* at 133.

52. Joan Williams, *From Difference to Dominance to Domesticity: Care as Work, Gender as Tradition*, 76 CHI.-KENT L. REV. 1441, 1453 (2001).

53. *Id.*

54. *Id.* at 1493.

55. See WILLIAMS, *supra* note 2, at 193–205.

56. *Id.* at 36–38.

57. *Id.* at 38–39, 75.

58. *Id.* at 40.

59. *Id.* at 73. For example, Williams proposes that employers offer sick leave that workers can use to care for a worker’s children or parents, personal days available for use for emergencies with minimal notice, vacation or personal leave available in two-hour increments, phone breaks so workers can check on sick family members or kids alone after school, reduced work hours for a period after childbirth, unpaid leave beyond the twelve weeks presently provided by the Family and Medical Leave Act (FMLA), and an expansion of the definition of family in the FMLA to include grandparents and other nontraditional families. *Id.*

60. *Id.* at 73–74.

61. See notes 40–43 and accompanying text.

demic elite. According to John Dewey, one of the founders of philosophical pragmatism, using jargon is a “disaster” because it makes “the things of the environment unknown and incommunicable by human beings in terms of their own activities and sufferings.”⁶²

And yet what strikes me about *Reshaping the Work-Family Debate* is the equally strong presence of a structural feminist critique of the causes of work and family conflict, however translated for mainstream sensibilities. According to Williams, the toxic combination of separate-spheres ideology and class dynamics explains the glass ceiling and maternal wall for women in professional jobs;⁶³ the pressure on professional men to work long hours;⁶⁴ professional men’s reluctance to utilize family leave;⁶⁵ working-class men’s hesitation to tell managers the real reasons for their absences from work even in the face of discipline (babysitting breakdowns);⁶⁶ the rise of intensive parenting (especially mothering) standards in middle-class families;⁶⁷ the reasons working-class families prefer using neighbors and relatives for childcare;⁶⁸ disagreements over hot-button cultural issues such as welfare, abortion, and same-sex marriage;⁶⁹ and even the foods that we eat and unspoken social rules we follow at dinner parties.⁷⁰ In sum, although on the surface this book suggests a pragmatic approach to work and family issues, through its tight conception of the division of labor by sex as the system that creates gender, the book stays in close theoretical contact with feminism, particularly Marxist-socialist inspired feminisms.⁷¹

62. JOHN DEWEY, *THE PUBLIC AND ITS PROBLEMS* 173 (1927).

63. WILLIAMS, *supra* note 2, at 91–107.

64. *Id.* at 83–87.

65. *Id.* at 88.

66. *Id.* at 56–61.

67. *Id.* at 22–23. This trend, also termed “helicopter parenting” and “smothering mothering,” has received significant attention recently. See CLAIRE DEDERER, *POSER: MY LIFE IN TWENTY-THREE YOGA POSES* 6, 20–21 (2011); Gaia Bernstein & Zvi H. Triger, *Over-Parenting*, 44 U.C. DAVIS L. REV. (forthcoming 2011), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1588246; Lisa Belkin, *Defining a Successful Parent*, N.Y. TIMES MOTHERLODE (parenting blog) (July 19, 2010, 3:00 PM), <http://parenting.blogs.nytimes.com/2010/07/19/defining-a-successful-parent/>.

68. WILLIAMS, *supra* note 2, at 207–08.

69. *Id.* at 195–205.

70. *Id.* at 171–74.

71. Marxist-socialist feminism developed as a response to radical feminism in the 1960s. Radical feminists had concluded that Marxism had failed as a theory of oppression because it did not account for the origins or dynamics of sex oppression. See, e.g., SHULAMITH FIRESTONE, *THE DIALECTIC OF SEX: THE CASE FOR FEMINIST REVOLUTION* 12–13 (Morrow Quill 1993) (1970); KATE MILLET, *SEXUAL POLITICS* 23–58 (1970). They provided systemic accounts of previously underexamined horrors such as heterosexism, rape, prostitution, and sexual violence more generally. See, e.g., MILLET, *supra*, at 3–22, 71, 44, 157–58; Charlotte Bunch, *Lesbians in Revolt, in LESBIANISM AND THE WOMEN’S MOVEMENT* 29–37 (Nancy Myron & Charlotte Bunch eds., 1975). Primarily through the work of Catharine MacKinnon, these ideas eventually filtered their way into

law. See Catharine A. MacKinnon, *Feminism, Marxism, Method, and the State: An Agenda for Theory*, 7 SIGNS 515, 516 (1982). Many feminists, however, did not wish to separate from Marxism completely. They felt that reforming capitalist institutions was equally as important as eliminating sex-based oppression. And so a strand often referred to as Marxist-socialist feminism developed as an effort to synthesize feminism and Marxism into a viable theory of women's oppression.

Marxist-socialist inspired feminist critiques are actually quite heterogeneous. "Dual-systems" feminist theory, as political scientist Iris Young famously coined, sees male domination of women and economic domination as reinforcing but essentially independent. See Iris M. Young, *Socialist Feminism and the Limits of Dual Systems Theory*, SOCIALIST REV., Mar.-June 1980, at 169-88. To achieve this theoretical perspective, many dual-systems theories explain gender as a result of psychological processes in the family, separate from economic relations. See, e.g., JULIET MITCHELL, PSYCHOANALYSIS AND FEMINISM 347-50, 353-55, 380, 406, 412-13 (1974). Dual-systems theory came under attack very quickly in American feminism for its identification of women with the domestic sphere. See Heidi I. Hartmann, *The Unhappy Marriage of Marxism and Feminism: Towards a More Progressive Union*, in WOMEN AND REVOLUTION 1-41 (Lydia Sargent ed., 1981); Young, *supra*, at 179. In law, similar tensions developed between feminist scholars urging divorce reform and other family-based solutions to women's economic inequality and those working on sex discrimination in the workplace. Compare MARTHA ALBERTSON FINEMAN, THE ILLUSION OF EQUALITY: THE RHETORIC AND REALITY OF DIVORCE REFORM *passim* (1991), Jane Rutherford, *Duty in Divorce: Shared Income as a Path to Equality*, 58 FORDHAM L. REV. 539, 577-85 (1990), Jana B. Singer, *Divorce Reform and Gender Justice*, 67 N.C. L. REV. 1103, 1113-21 (1989), and Joan Williams, *Is Coverture Dead? Beyond a New Theory of Alimony*, 82 GEO. L.J. 2227, 2257-66 (1994), with Vicki Schultz, *Life's Work*, 100 COLUM. L. REV. 1881, 1899-1919 (2000).

Other Marxist-socialist-inspired feminisms present more complex understandings of the relationship between sexual and economic inequality. For example, some theorists see economic and gender relations as interdependent. Heidi Hartmann, in an important socialist-feminist essay written in 1981, explained this perspective:

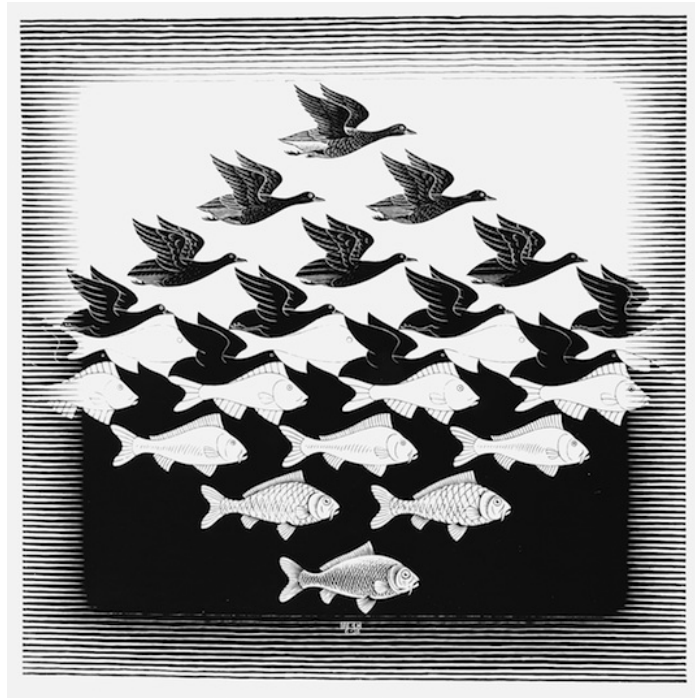
The strict division of labor by sex, a social invention common to all known societies, creates two very separate genders and a need for men and women to get together for economic reasons. . . . Although it is theoretically possible that a sexual division of labor not imply inequality between the sexes, in most known societies, the socially accepted division of labor by sex is one which accords lower status to women's work. The sexual division of labor is also the underpinning of sexual subcultures in which men and women experience life differently; it is the material base of male power which is exercised (in our society) not just in not doing housework and in securing superior employment, but psychologically as well.

Hartmann, *supra*, at 16; see also FIRESTONE, *supra*, at 234-35.

According to this perspective, economic exploitation and sex-based oppression are a partnership. Wage discrimination, overt and subtle limits on women's workplace advancement, and the organization of paid work around the life patterns of employees without caregiving responsibilities maintain the material base of our economic system. These institutional workplace arrangements, in turn, incentivize women to specialize in family work, thus reproducing the gendered division of labor in the family. The feedback loop between the institutional arrangements of the family and the workplace thus reproduce the sexual division of labor, and gender itself.

A third example of this general type of theoretical approach is sometimes referred to as feminist historical materialism. See Young, *supra*, at 184. According to Iris Young, this approach takes gender differentiation as its basic starting point, but it does not assume a unitary theory of how gender is produced. It "must be suspicious of any claims to universality regarding any aspect of women's situation." *Id.* at 186. Feminist historical materialism, according to Iris Young, "would examine all laboring activity, and the relations arising from laboring activity, broadly defined, as a crucial de-

For me, the tension between the feminist and pragmatic themes in Williams's book brings to mind Dutch artist M.C. Escher's renowned woodcut, *Sky and Water I*, depicting a school of fish and flock of birds.⁷² The fish and birds fit into each other like a jigsaw puzzle. The fish are white, the birds are black, and each alternately comes into focus depending on whether the eye concentrates on light or dark elements. Like *Sky and Water I*, whether one sees in Williams's ambitious new book a pragmatic roadmap for legal and political change requiring employers and families to recognize and value domestic work, or a revival of Marxist-socialist feminism, depends on where the eye concentrates and, perhaps more importantly, on whose eyes are looking.



M.C. Escher's "Sky and Water I" © 2011 The M.C. Escher Company-Holland.
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terminant of social phenomena." *Id.* Finally, feminist historical materialism would be less essentialist in that it would recognize that there are "vast differences in the situation, structure, and the experience of gender relations in different times and places." *Id.* at 186. In Young's theory, one can see the shadows of postmodern feminisms.

These are just three examples of Marxist-socialist feminisms. My larger goal here is not to describe one unified body of theory, so much as to sketch a general type of theoretical approach within feminism that focuses on the role of patriarchy and capitalism in reproducing gender and other social systems of power.

72. M.C. ESCHER, *THE GRAPHIC WORK*, at plate 13 (2001).

As a legal scholar who has been reading, writing about, and engaging with feminist theory for twenty years, my eyes naturally focus on Williams's structural account of the causes of women's and men's economic inequality, rather than the bells and whistles adorning it (that is, the social science studies, narratives, media analyses, economic statistics, policy proposals, and graphs and charts). Indeed, notwithstanding Williams's apparent attempt to distance her work from more unitary, theoretical work,⁷³ I am not completely convinced that *Reshaping the Work-Family Debate* is a fully pragmatic project. Its efforts to eliminate the conceptual foundations of domesticity everywhere it appears, root and branch—in the workplace, in the family, in government policy, in culture and in law, in the very way we *talk* about the problem—suggests a visionary feminist account of the intersection of economic and gender inequality.

Williams, in her previous work, experimented with a concept she called “domesticity in drag.”⁷⁴ Borrowing from Judith Butler's concept of gender as a drag performance,⁷⁵ Williams argued for the strategic uses of “domesticity in drag” to support progressive agendas.⁷⁶ According to Williams, domesticity in drag means we should “work within domesticity.”⁷⁷ For Williams, that means respecting that most Americans accept the norm of parental care of children while subverting the gendered system of providing for such care in the family.⁷⁸ It also means using domesticity's norm of parental care to challenge the ideal worker norm of market work.⁷⁹ Domesticity in drag, for Williams, was a form of pragmatism, a recognition that we can “democratiz[e] domesticity”⁸⁰ without rejecting its fundamental tenet of parental care. Although this strategy would not undermine America's commitment to privatizing dependency within the sexual family,⁸¹ or challenge the pressure on women to repro-

73. See, e.g., WILLIAMS, *supra* note 2, at 212 (“Discarding Marxian analyses from 30,000 feet, we need to come down to learn enough about working-class life to end decades of casual insults.”); *id.* at 113 (rejecting a unified theory of gender).

74. See, e.g., WILLIAMS, *supra* note 22, at 198, 260.

75. See JUDITH BUTLER, *GENDER TROUBLE* 136–38 (1990). Specifically, drag, dressing like a person of the “opposite sex,” was a metaphor employed by Judith Butler to describe gender as a performance, a set of manipulated codes and costumes, rather than as a core aspect of essential identity. According to Butler, all gender is a form of drag; there is no real core gender.

76. See Joan C. Williams, *Exploring the Economic Meanings of Gender*, 49 AM. U. L. REV. 987, 1001 (2000).

77. *Id.* at 1014.

78. See WILLIAMS, *supra* note 22, at 260.

79. *Id.*

80. See Williams, *supra* note 52, at 1490.

81. See MARTHA ALBERTSON FINEMAN, *THE NEUTERED MOTHER* 163–66 (1995).

duce,⁸² it would go quite a way towards leveling the playing field between affluent and working-class parents by requiring that work be re-structured around the needs of caregivers.⁸³

In a similar vein, I see *Reshaping the Work-Family Debate* as a strategic deployment of drag. The book is not only domesticity in drag, however. It is feminism in drag.⁸⁴ By feminism in drag, I do not simply mean the strategy of wrapping an unmistakable version of Marxist-socialist feminism in pragmatist clothing designed to appeal to a broad nonfeminist audience. Rather, I am referring to the way that Williams's book unifies feminism and pragmatism into a theoretical and strategic whole that is greater than the sum of its parts, while, at the same time, each approach creates a point of departure for the elucidation and assessment of the other. The Marxist-socialist inspired feminism in Williams's book derives from its identification of the division of labor by sex in the home and workplace as the primary "gender factory" in our society.⁸⁵ The pragmatism is reflected in her refusal to retreat to an ivory tower away from active engagement in the practical problems of women and men struggling to understand why they are so tired and equal sharing is so hard to achieve. Some commentators have professed skepticism of Williams's strategy for its potential to obscure the strong visionary foundation of her argument.⁸⁶ However, as in *Escher's Sky and Water I*, something more complex and exciting is going on in Williams's book than that critique generally allows.

Let us think of the Marxist-socialist feminist themes in Williams's book as the birds, and her pragmatic policy program of figuring out how to talk to working-class Americans and men about work and family issues as the fish. This juxtaposition of birds and fish, feminism and prag-

82. See Katherine M. Franke, *Theorizing Yes: An Essay on Feminism, Law, and Desire*, 101 COLUM. L. REV. 181, 183 & 183 n.8 (2001).

83. See Williams, *supra* note 52, at 1489–90.

84. My use of Butler's drag metaphor is slightly different than Williams's. As I understand Williams's argument, she is using drag as part of a "multi-systems" analysis, in which capitalism and patriarchy are not completely interdependent systems. While they are parasitic on each other, they sometimes come into conflict and can be deployed to undermine one another. Thus, by recognizing, supporting, and valuing a key building block of patriarchy (the norm of parental care), we can disrupt a key building block of capitalism (the norm of the ideal worker). I have also employed a multi-systems perspective in much of my own work. See, e.g., Laura T. Kessler, *Transgressive Caregiving*, 33 FLA. ST. U. L. REV. 1, 4–5 (2005). Here, however, I am more interested in how drag potentially disrupts both the categories it purports to hide and perform.

85. See SARAH FENSTERMAKER BERK, *THE GENDER FACTORY: THE APPORTIONMENT OF WORK IN AMERICAN HOUSEHOLDS* (1985). Berk located the main source of gender oppression in the domestic sphere. *Id.* at 2–3, 201–08. Williams, in contrast, follows the tradition of theorists like Heidi Hartmann and Iris Young, discussed *supra* note 71, who see both economic production and biological reproduction as determinates of the sex/gender system.

86. See, e.g., Abrams, *supra* note 21, at 778–80.

matism, is not simply an assimilation of feminism back into the terms of majoritarian (that is, nonfeminist) discourse or politics. Rather, as in *Sky and Water I*, the birds and the fish are equally situated. Moreover, the birds and the fish *constitute* one another. In Escher's words:

We associate flying with sky, and so for each of the black birds the sky in which it is flying is formed by the four white fish which encircle it. Similarly swimming makes us think of water, and therefore the four black birds that surround a fish become the water in which it swims.⁸⁷

We see a similar synergy in Williams's book. Marxist-socialist inspired feminism is the water in which Williams's pragmatism swims. Pragmatism is the air in which her feminist vision flies.

To be sure, the marriage of visionary Marxist-socialist inspired feminism with philosophical pragmatism is bound to result in some complexities and compromises. For example, by trying to appeal to a broad audience, Williams leaves in place some key building blocks of domesticity that many Americans may not be willing to abandon. Among others, those building blocks include commodification anxiety or the idea that family care work is and should be a distinctly nonmarket activity;⁸⁸ repronormativity or the idea that it is inevitable that people will reproduce in their lifetimes;⁸⁹ and the privatization of dependency or the idea that the economic, physical, and emotional dependency of human beings is best taken care of by the private (ideally heterosexual) family, rather than by the state.⁹⁰ However, despite these compromises, I think it is fair to say that, like the birds and the fish in *Sky and Water I*, Williams's vi-

87. See ESCHER, *supra* note 72, at 5.

88. See WILLIAMS, *supra* note 2, at 207–09 (discussing how many workers prefer either tag teaming or “family child care,” which may argue for more flexible work hours and more generous family leave policies, rather than subsidized child care centers). For a set of alternative views on commodification, see RETHINKING COMMODIFICATION: CASES AND READINGS IN LAW AND CULTURE 271–347 (Martha M. Ertman & Joan C. Williams eds., 2005) (containing essays by Deborah Stone, Joan Williams, Katharine Silbaugh, Martha Ertman, Teemu Ruskola, and Linda Hirshman & Jane Larson).

89. See WILLIAMS, *supra* note 2 *passim* (focusing in significant part on work and family conflicts caused by child care). For a critique of repronormativity, see Franke, *supra* note 82, at 183–98.

90. See WILLIAMS, *supra* note 2 *passim* (focusing primarily, although not exclusively, on the structural arrangements of the family and workplace, rather than on the minimal social welfare state in America). For a critique of the privatization of dependency within the family, see MARTHA ALBERTSON FINEMAN, THE AUTONOMY MYTH 263–91 (2005) and FINEMAN, *supra* note 81, at 164–66. See also Gowri Ramachandran, *Confronting Difference and Finding Common Ground*, 34 SEATTLE U. L. REV. 725 (2011). For a critique of the Right's use of marriage politics to promote inequalities that go beyond sexuality and a vision of how progressives might reframe gay rights as a broader movement for family diversity and advocacy for material support of caretaking, see Lisa Duggan & Richard Kim, *Beyond Gay Marriage*, THE NATION, July 18, 2005, at 24.

visionary feminism and philosophical pragmatism are *moving in the same direction*.

A strong case exists for Williams's brand of visionary realism at this particular moment in history. Consider these realities: Today, even in the wake of the largest world financial crisis since the Great Depression, Marxism and socialism are used as epithets to attack President Obama's modest efforts to stem the recent economic crisis.⁹¹ For example, purporting to report "evidence of socialism" in President Obama's policies, conservative radio and television host Glenn Beck has cited Obama for "taking over" the auto industry, the banking industry, and AIG, as well as the "supposed total government control of our health care industry" and "control of the entire student loan industry" established through recent legislation.⁹² Beck noted with alarm that Obama spent "his childhood teenage years with radicals, Marxists, and communists, and attend[ed] a Marxist church for twenty years with a Marxist pastor."⁹³ Along the same lines, in January 2009, college student Firas Alkhateeb digitally designed a poster depicting President Obama as the comic super villain Joker.⁹⁴ Allegedly without political motivation, he uploaded it to a photo-sharing website, from where it was downloaded by an unknown individual who added the caption "socialism."⁹⁵ That image was subsequently adopted by some critics of the Obama administration and described as the "most infamous anti-Obama image."⁹⁶ In response, Obama and others on the democratic left have had to spend a significant amount of time defending the administration's commitments to capitalism.⁹⁷

The Obama Joker poster, which Tea Partiers have displayed routinely at their rallies since 2009, suggests three realities that Joan Williams recognizes in *Reshaping the Work-Family Debate*. First, progres-

91. See, e.g., Peter Baker, *Obama Defends His Policies to C.E.O.'s*, N.Y. TIMES, Feb. 25, 2010, at B2, available at http://www.nytimes.com/2010/02/25/business/25obama.html?_r=1&scp=1&sq=obama+defends+his+policies&st=nyt.

92. See Glenn Beck: *Obama Socialist?* (Fox News Channel television broadcast Apr. 6, 2010), transcript available at <http://www.foxnews.com/story/0,2933,590532,00.html>.

93. *Id.*

94. See Mark Millan, *Obama Joker Artist Unmasked: A Fellow Chicagoan*, L.A. TIMES BLOG, <http://latimesblogs.latimes.com/washington/2009/08/obama-joker-artist.html>.

95. *Id.*

96. See Oliver Good, *The Joke's on Who?*, THE NATIONAL, <http://www.thenational.ae/lifestyle/the-jokes-on-who?pageCount=0>. Specifically, the poster presents a racist attack on the country's first African American President in complex and insidious ways. It calls attention to the color of Obama's skin, alludes to the tradition of blackface in the nineteenth century that propagated American racist stereotypes, and appears to associate Obama with urban violence through its replication of the version of the Joker in *Dark Knight*, the latest Batman film in a long franchise that dramatizes fear of the urban world.

97. Transcript: *Obama's Interview Aboard Air Force One*, N.Y. TIMES, March 7, 2009, <http://www.nytimes.com/2009/03/08/us/politics/08obama-text.html?scp=12&sq=&st=nyt>.

sives need a strong visionary alternative to free-market and religious fundamentalist ideologies. Through her resuscitation of Marxist-socialist inspired feminism, Williams's book provides such a clear vision. Second, although long-dormant Marxist- and socialist-inspired theories (feminist and otherwise) provide promising alternatives to the ideologies on the Right, progressives need to develop a new language to communicate this theory if any headway is to be made. Williams's marriage of philosophical pragmatism with visionary feminism represents a very promising start to building such a new language.⁹⁸ Finally, a key strategic task in this era is coalition building. As Williams persuasively argues in her book, without a far broader constituency for policy change, we are likely to make little progress developing family-friendly policies or other progressive reforms. This coalition building process will involve experimentation and, inevitably, some compromises along the way. Engaging working-class communities, which Williams advocates, is one such potentially fruitful experiment.⁹⁹

III. TAKING WILLIAMS'S VISIONARY REALISM EVEN FURTHER

As I suggested in the beginning of this Essay, the shared pain of the market collapse by professional and working-class Americans and the expansion of perspectives within legal feminism create a potentially fertile environment for the ideas and policy proposals in *Reshaping the Work-Family Debate*, especially Williams's idea that understanding class and masculinity are key pieces of the puzzle of work and family conflict. In this last Part, I offer some suggestions that might take Williams's powerful analysis even further. In particular, I focus on Williams's view that "cultural differences are an expression of class differences and a key language of class conflict."¹⁰⁰

98. For a similar observation that the Left might benefit from adopting the Right's successful strategy of marrying unconfined theory with practical politics, see McCluskey, *supra* note 8, at 1212–26.

99. The Obama poster also suggests another reality, which is that racial formation is an aspect of class formation, although they are not necessarily one and the same. See *Toward a Marxist Theory of Racism: Two Essays by Harry Chang*, 17 REV. RADICAL POL. ECON. 34, 45 (1985) (Paul Liem & Eric Montague eds.). This Essay does not discuss the contribution of racism to many of the problems identified in Williams's book—including domesticity and the defection of the white working-class voters from the Democratic Party since the 1970s—and the complexities of that causal reality for Williams's theories and strategies, although other commentators have touched on these issues. See generally, Robert S. Chang, *Joan Williams, Coalitions, and Getting Beyond the Wages of Whiteness and the Wages of Maleness*, 34 SEATTLE U. L. REV. 825 (2011); Richard Delgado, *Race, Sex, and the Division of Labor: A Comment on Joan Williams's Reshaping the Work-Family Debate*, 34 SEATTLE U. L. REV. 835 (2011); Jean Stefancic, *Talk the Talk, but Walk the Walk: A Comment on Joan Williams's Reshaping the Work-Family Debate*, 34 SEATTLE U. L. REV. 815 (2011).

100. WILLIAMS, *supra* note 2, at 161.

Williams makes two important points about class in the final part of her book. First, she argues that there are significant cultural differences between classes, what she calls the “class culture gap.” These differences are reflected in a wide-range of divergent attitudes, practices, and habits related to food, sports, vacations, child rearing, education, religion, and family life.¹⁰¹ Think arugula versus iceberg lettuce, Starbucks versus Dunkin’ Donuts, the four-year liberal arts colleges that many privileged children enjoy versus the local community college for working-class children.

Second, and relatedly, Williams argues that political disagreements on apparently cultural issues are often heavily driven by this class culture gap. For example, she argues that the abortion debate is largely a fight between pro-choice upper-middle-class business and professional women and pro-life working-class homemakers.¹⁰² She suggests that different attitudes about responsibility and self-discipline may explain this divide: Professional elites value freedom, experimentation, and autonomy. In contrast, working-class Americans have learned to value strict self-regulation and “settled-living” from their experiences in non-elite jobs, which require dependability and consistency, and from their interactions with law enforcement and other state officials.¹⁰³ Along the same lines, she discusses how working-class Americans are generally more religious than professional elites, which adds a distinct class dynamic to disagreements about same-sex marriage.¹⁰⁴ Williams provides other examples of cultural disagreements that may actually represent conflicts between certain core values of working-class and professional Americans—for example, disagreements over the military, welfare, and affirmative action. I will not discuss these topics in detail, except to say that her larger argument is that cultural voting accounts for most of the working class’s shift to the right.¹⁰⁵ To remedy these defections and to bring working-class Americans back into the Democratic Party—a necessary condition for progressive policy reform, including policy reform on the work-family front—she calls for more cross-cultural understanding. For Williams, this means both sides need to “consider what the problem looks like from the others’ point of view”¹⁰⁶ and demonstrate more “symbolic expressions of mutual respect.”¹⁰⁷ In her call for more respectful dialogue, there is a poststructuralist cast to Williams’s approach. For poststructuralists, iden-

101. *Id.* at 151–86.

102. *Id.* at 196.

103. *Id.* at 165, 196.

104. *Id.* at 204–05.

105. *Id.*

106. *Id.* at 212.

107. *Id.* at 213.

tity (class, race, sex, etc.) is a discursive construct rather than a fact. In this view, class is an effect of discourse, not a cause of it. And this is the point where Williams's analysis begins to stir a bit of skepticism in me. Let me illustrate this discomfort through a brief discussion of my personal experience.

I am a "class migrant" in Williams's terminology.¹⁰⁸ A class migrant is someone who has achieved social status beyond her family of origin. As a class migrant, I recognized with comprehension and amusement my experiences with my own family in virtually every part of Williams's description of the class culture gap. My mother grew up in a public housing project in New York City. Her father (my maternal grandfather) was a janitor and night-watchman, when he was not drinking and living away from the family. My father's family was slightly better off; his father (my paternal grandfather) was a bus driver. My parents attended college, but only after they were married, and they earned their degrees at night while working full time, my father eventually obtaining a graduate degree and achieving a solid "settled-living"¹⁰⁹ status for our family by the time I was school-aged. My parents' ability to achieve a solid middle-class status was significantly facilitated by robust public supports such as free higher education,¹¹⁰ a government-insured FHA mortgage,¹¹¹ my father's protected civil service employment, and racial segregation,¹¹² although my parents largely credit their success to their

108. See, e.g., *id.* at 168.

109. *Id.*

110. My father attended the City College of New York (CCNY), one of the first free public institutions of higher education in the United States. See JAMES TRAUB, *CITY ON A HILL: TESTING THE AMERICAN DREAM AT CITY COLLEGE* 22–23 (1995). CCNY's academic excellence and status as a working-class school earned it the titles "Harvard of the Proletariat," and "the poor man's Harvard." *Id.* at 33–37; Joseph Berger, *Proletarian Harvard Turns 150, Its Mission Expanding*, N.Y. TIMES, May 8, 1997, <http://www.nytimes.com/1997/05/08/nyregion/proletarian-harvard-turns-150-its-mission-expanding.html?src=pm>; Robert Sobel, *Review: City on a Hill: Testing the American Dream at City College*, ELECTRONIC NEWS, Nov 21, 1994, at 42.

111. The Federal Housing Administration (FHA) home mortgage insurance program was created by the National Housing Act of 1934 in response to the housing crisis created by the Great Depression. See LOUIS HYMAN, *DEBTOR NATION: THE HISTORY OF AMERICA IN RED INK* 53 (2011). By definition, FHA-insured mortgages are long-term, low-interest, amortized, allow buyers to finance up to 80% of the home purchase price, and are backed by the federal government, thereby removing the lending risk for banks. *Id.* at 53–58. The FHA loan program greatly increased the number of Americans who could afford to buy homes. *Id.* at 57; see also ALEX F. SCHWARTZ, *HOUSING POLICY IN THE UNITED STATES* 19, 51–88 (2d ed. 2010).

112. See HYMAN, *supra* note 111, at 65–67 (discussing the racism, antiurbanism, and pro-development assumptions in the FHA underwriting guidelines, which fostered racial segregation in housing in the United States); DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* 51 (1993) (discussing the "redlining" practice of the Home Owners' Loan Corporation); TRAUB, *supra* note 110, at 10, 44–68 (discussing the history of racial exclusion at City College and the activism that lead to its integration); Chang, *supra* note 99, at 830 ("Investments in Whiteness helped to produce, legally and extra-legally, the creation

own hard work. My only sister is a manicurist, and my brother-in-law, her husband, has worked for Home Depot, Trader Joe's, and several construction-related small businesses. During their marriage, he has paid nearly all of his earnings toward child support for his son from a previous marriage.¹¹³

My experiences with my family reflect a near perfect account of the class culture gap described in Williams's book. My family does not understand why I live so far away, why I prefer vacationing in foreign countries rather than going on cruises or visiting the Atlantic shore, why I buy organic food or would waste my money dining in restaurants where everything on the menu is offered *a la carte*. Nor do they fully understand what it is exactly that I do for a living; it has taken years of sharing my scholarship with my mother for her to understand that I am more than a teacher and that I do not, like secondary school teachers, get my summers "off." In sum, I found Williams's account of the way that class is manifested as cultural difference to ring *completely* true.

And yet, I cannot help thinking that the most salient characteristics that separate me from my manicurist sister are not that she would prefer to eat in predictable chain restaurants or that she disapproves of my permissive parenting style or that she shops at Walmart and I at Costco. Rather, our greatest class differences are found in the fact that she earns approximately fifteen percent of my income in a good year, has no pension, has not consistently had access to employer-subsidized health insurance during her adult life, and has no college degree. In Williams's terminology, she is "one sick child away from being fired,"¹¹⁴ and I am part of the professional elite. I am not so much arguing that the class culture gap is not real or that bridging it will not be helpful for political mobilization as trying to point out that focusing on culture and discourse in our analyses of class, without also including materialist understandings of class, may not go far enough toward dismantling the system of domesticity that Williams so ably describes.

Therefore, my parting thought on Williams's compelling theoretical and practical contributions to the topic is that this project may be further strengthened by attending to some of the macroeconomic issues contributing to work and family conflict. Prime among these issues is the erosion of the family wage in America. The reason Americans are working

and maintenance of segregated neighborhoods, segregated schools, and racially stratified and segregated workplaces.").

113. This detail is included not to suggest that we should roll back child support laws. Rather, I would argue for a more robust social welfare state that would provide for the needs of children and other dependents. See, e.g., Kessler, *supra* note 7, at 116; see also FINEMAN, *supra* note 90, at 263–91.

114. See WILLIAMS, *supra* note 2, at 42.

so hard, why people are working two and three jobs; why parents are “tag-teaming”;¹¹⁵ and why single-earner families make up only 23% of married-couple families,¹¹⁶ can be traced in part to stagnation and the decline in men’s real wages since the 1970s when adjusted for inflation.¹¹⁷ Americans have made up this decline through the rising percentage of households with two or more income earners,¹¹⁸ as well as through increased work hours.¹¹⁹ For a period of time, many Americans also made up for the gap in their wages by taking second mortgages against their homes, whose values were inflated due to a bubble in the housing market.¹²⁰ With the financial crisis of 2008, not only has that option disappeared but it has also left millions of Americans in dire financial straits and personal turmoil.¹²¹

As Williams touches on in her book,¹²² America is the most unequal of the world’s developed countries. This inequality has risen over the

115. *Id.* at 46–50.

116. U.S. CENSUS BUREAU, PARENTS AND CHILDREN IN STAY-AT-HOME PARENT FAMILY GROUPS: 1994 TO PRESENT, at tbl.SHP-1 (2010), available at <http://www.census.gov/population/socdemo/hh-fam/shp1.xls>.

117. FRANCINE D. BLAU, THE ECONOMICS OF WOMEN, MEN, AND WORK 248–49, 249 fig.8-1, 249 tbl.8-1 (2010). Specifically, Blau explains:

Male real earnings rose substantially in the 1960s and moderately during the 1970s, reaching a peak in 1973. Progress in male real earnings has been fitful since then. Male real earnings declined over the 1980s, and, while they did increase moderately over the 1990s, they stagnated in the 2000s. Overall, from their 1973 peak to 2007, male real earnings declined slightly, by 3.3 percent.

Id. at 248–49; see also HYMAN, *supra* note 111, at 222–23.

118. See STEPHANIE COONTZ, THE WAY WE REALLY ARE 57 (1997); COUNCIL OF ECON. ADVISORS, ECONOMIC REPORT OF THE PRESIDENT 25 (2000) [hereinafter ECON. REP. PRESIDENT 2000], available at <http://www.gpoaccess.gov/eop/download.html>; ELIZABETH WARREN & AMELIA WARREN TYAGI, THE TWO INCOME TRAP: WHY MIDDLE CLASS MOTHERS AND FATHERS ARE GOING BROKE 55–70 (2003). Note, however, that this “marriage insurance” dynamic has diminished in recent years. See BLAU, *supra* note 117, at 106–107. That is, as women’s jobs increasingly become careers as opposed to merely a means to earn income, wives’ labor supply becomes less responsive to husbands’ income. *Id.* at 107.

119. See ORG. FOR ECON. CO-OPERATION & DEV., OECD EMPLOYMENT OUTLOOK 2004: HOW DOES THE UNITED STATES COMPARE? 2, <http://www.oecd.org/dataoecd/41/15/32504422.pdf> (last visited Feb. 24, 2011).

120. See, e.g., HYMAN, *supra* note 111, at 10 (“After World War I, personal debt in American capitalism began to become commercially profitable, institutionally resellable, and legally available on level unknown before.”); *id.* at 221 (“As wages fell [in the post-1970 era], Americans continued to borrow ever greater amounts, making up the gap between incomes and expectations.”).

121. See EDMUND L. ANDREWS, BUSTED: LIFE INSIDE THE GREAT MORTGAGE MELTDOWN, at x (2009). According to Andrews, by the end of 2008, one out of eleven home mortgages was either delinquent or in foreclosure, and 2.2 million families had lost their homes due to foreclosure since the housing bubble peaked. *Id.*

122. See WILLIAMS, *supra* note 2, at 157–58.

past three decades to its highest levels in our history.¹²³ The share of disposable income accruing to the top 1% of United States households ranged from a peak of 22.5% in 1929 to a low of 9% in the late 1970s.¹²⁴ During that period, the middle three quintiles (probably roughly corresponding with Williams's "Missing Middle") substantially expanded their share of disposable income. After 1980, however, the share of income accrued by the top 1% of U.S. households took off like a rocket. By 2006, the richest 1% of American households accrued 22.5% of all disposable income earned in the United States, the same as in 1929. In sum, there has been an enormous pyramiding of income and wealth in United States in the last thirty years. This pyramiding of income and wealth is a key structural component causing the work and family conflicts felt by so many Americans. To flip a colloquialism, "money is time."

A discussion of the economic and legal developments that are contributing to the current financial crisis and rising income inequality is beyond the scope of this Essay. Others have explored or are exploring the causes, all facilitated through law, including excessive deregulation of financial markets,¹²⁵ perverse incentives through CEO compensation,¹²⁶ conflicts of interest in the financial regulation system,¹²⁷ globalization,¹²⁸ and the decline in the percentage of unionized workers in the United States.¹²⁹ Williams's efforts to reframe the conversation on work

123. See ECON. REP. PRESIDENT, *supra* note 118, at 25; Arthur F. Jones Jr. & Daniel H. Weinberg, *The Changing Shape of the Nation's Income Distribution 1947-1998*, at 1, 2 fig.1, 7-8 (U.S. Census Bureau, Current Pop. Rep., No. P60-204, June 2000), available at <http://www.census.gov/prod/2000pubs/p60-204.pdf>.

124. See Robert Wade, *The Global Slump: Deeper Causes and Harder Lessons*, 52 CHALLENGE 5, 12 (2009).

125. See JOSEPH E. STIGLITZ, THE ROARING NINETIES 87-114 (2003); Robert J. Shiller, *Democratizing and Humanizing Finance*, in REFORMING U.S. FINANCIAL MARKETS 19-26 (Randall S. Kroszner & Robert J. Shiller eds., 2011).

126. *Id.*; see also DAN ARIELY, THE UPSIDE OF IRRATIONALITY: THE UNEXPECTED BENEFITS OF DEFYING LOGIC AT WORK AND AT HOME 17-52 (2010). Ariely is a behavioral economist. In Chapter 2 of his book, "Paying More for Less: Why Big Bonuses Don't Always Work," he reports the results of his experiment showing that, relative to those in low- to medium-bonus conditions, those who stand the most to earn demonstrate the lowest level of performance. *Id.* at 31. Based on these findings, he notes that "executive bonuses are paid with shareholders' money, and the effectiveness of those expensive payment schemes is not all that clear." *Id.* at 41.

127. See ANDREWS, *supra* note 119, at xv; STIGLITZ, *supra* note 125, at 134-36, 150, 168, 273, 276.

128. See STEVEN GREENHOUSE, THE BIG SQUEEZE: TOUGH TIMES FOR THE AMERICAN WORKER 94-95, 203-13 (2008); Jones & Weinberg, *supra* note 123, at 10; *c.f.* STIGLITZ, *supra* note 125, at 202-40 (describing how U.S. globalization of free-market ideology, pressure to liberalize foreign capital markets, and negotiation of unfair trade agreements brought unprecedented poverty and financial crisis to poor developing countries).

129. News Release, Bureau of Labor Statistics, Union Members—2010 (Jan. 21, 2011) (reporting that union membership in 2010 was 11.9%, down from 20.1% when comparable data was first compiled in 1983); see also Jones & Weinberg, *supra* note 123, at 10 (linking the downward trend in

and family issues through inter-class dialogue and understanding would be furthered through direct confrontation with these structural economic components of neoliberalism.

IV. CONCLUSION

Since the rise of conservatism in America, there has been much discussion on the Left about progressives' alleged failure to offer robust alternatives to free-market and religious fundamentalist ideologies,¹³⁰ as well as calls for "courage to open the door of political and legal thought as if the wolves were not there."¹³¹ The result has been some uncomfortable conversations among progressives and tensions in critical left intellectual movements.¹³² For example, Janet Halley has written against the idea that feminism is an indispensable element of any adequate theory of sexuality and gender. She suggests that those interested in developing new insights about power and sexuality might benefit from "tak[ing] a break from feminism."¹³³ Although Williams questions this substantive move because she sees feminism as indispensable to her project of eliminating domesticity,¹³⁴ in significant ways the methodology and politics of her new book are consistent with Halley's perspective. Specifically, by foregrounding masculinity and the needs of the "Missing Middle" in her analysis and backgrounding (although certainly not ignoring) racism, poverty, and sexism, she demonstrates a thoughtful willingness to step away from some of the foundational approaches of progressive politics. At the same time, *Reshaping the Work-Family Debate* vigorously deconstructs some of the foundations of conservative politics, including the sex/gender wage system and an impoverished idea of justice that Americans deserve little more than "a chance to go as far as their God-given abilities will take [them]."¹³⁵ William's book eloquently suggests an al-

wages of less-educated workers to the decline of the proportion of workers belonging to unions, among other factors).

130. See, e.g., Gara LaMarche & Deepak Bhargava, *The Road Ahead for Progressives: General Election '10*, SANTA FE REP., Oct. 20, 2010, at 14 ("[T]he President and the Democrats have no consistent voice or even policy. . . . There is an almost complete absence of any overarching narrative from the progressive side to drive individual policy debates and to shape the national dialogue.").

131. Wendy Brown & Janet Halley, *Introduction*, in LEFT LEGALISM/LEFT CRITIQUE 36 (Wendy Brown & Janet Halley eds., 2002).

132. See, e.g., FEMINIST AND QUEER LEGAL THEORY: INTIMATE ENCOUNTERS, UNCOMFORTABLE CONVERSATIONS, *supra* note 6, at 1, 1–6 (describing the vigorous and sometimes contentious debates between and among feminist and queer legal theorists).

133. JANET HALLEY, *SPLIT DECISIONS: HOW AND WHY TO TAKE A BREAK FROM FEMINISM* (2006).

134. See WILLIAMS, *supra* note 2, at 121–22.

135. *Id.* at 131.

ternative vision: “from each according to his abilities, to each according to his needs.”¹³⁶

The convergences of recent historical events and various strands of critical theory create an opportunity for progressives to take back some of the ground lost since the 1970s. However, even the pain of a national crisis like the market collapse cannot quickly reverse decades of structural gains by the Right. Williams’s visionary realism, so beautifully articulated in *Reshaping the Work-Family Debate*, represents an example of the hard and rigorous work necessary for that effort.

136. *Id.* (quoting KARL MARX, CRITIQUE OF THE GOTHA PROGRAM 27 (Wildside Press 2008) (1875)).