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BOOK REVIEW

AS AMERICAN AS PARENTHOOD AND APPLE PIE: NEUTERED MOTHERS, BREADWINNING FATHERS, AND WELFARE RHETORIC

Linda J. Lacey†

THE NEUTERED MOTHER, THE SEXUAL FAMILY AND OTHER TWENTIETH CENTURY TRAGEDIES. By *Martha Albertson Fineman*.†† New York: Routledge. 1995. Pp. 236.

FATHERLESS AMERICA: CONFRONTING OUR MOST URGENT SOCIAL PROBLEM. By *David Blankenhorn*.††† New York: BasicBooks. 1995. Pp. viii, 328.

INTRODUCTION

Rhetoric about the dangers that single mothers pose to society has reached a fever pitch in the last decade. Critics blame single mothers for poverty, crime, drug addiction, and the breakdown of western culture as we know it.¹ This condemnation is especially strong when the target is single mothers on welfare,² but the attacks

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¹ For example, influential Senator Daniel Moynihan states: "We talk about the drug crisis, the education crisis, and the problems of teen pregnancy and juvenile crime. But all these ills trace back predominantly to one source: broken families." 136 CONG. REC. 14,418 (daily ed. October 3, 1990) (quoting Karl Zinsmeister, *Raising Hiroko*, AM. ENTERPRISE, Mar.-Apr. 1990, at 52, 53). President Clinton has described out-of-wedlock births as a "disaster," adding that "[y]ou shouldn't have a baby before you're ready and you should not have a baby when you're not married." Mark O'Keefe, *A Question of Power, Politics and Policy: What Is a Family*, OREGONIAN, Jan. 22, 1995, at B1. James Carville, Clinton's political strategist, has summed up the current political attitude toward family structures as "daddies matter, big time." David Boldt, *They're No Longer Superfluous; Daddies Matter—Big Time*, TULSA WORLD, Apr. 7, 1996, at G-6. For a general discussion of societal attitudes blaming welfare mothers for a variety of problems, see Joel F. Handler, *Two Years and You're Out*, 26 CONN. L. REV. 857 (1994).

² A definitive profile of the "Welfare Queen" has emerged from the rhetoric. She is (1) single; (2) poor; (3) a teenager; and (4) black. This stereotype, like many others about welfare mothers, is completely inaccurate, see Handler, *supra* note 1, at 865-66, but the accuracy of the stereotype is less important than the underlying ideology that created it. The shift of unmarried mothers from the category of "deserving poor" to "undeserving

on unmarried women have broadened to include "broken" families of all socioeconomic classes.³ Women who choose to have children out of wedlock are described as "mock[ing] the importance of fathers"⁴ and divorced mothers are characterized as heads of dysfunctional families. Much of welfare reform centers around forcing mothers to name and marry the fathers of their children.⁵ And, as explained above, the efforts to mandate a traditional family structure are not limited to women on welfare. Attempts to severely curtail divorce for

poor" is part of a calculated attack on the perceived threat that welfare mothers represent to conservative patriarchal culture. See generally MIMI ABRAMOVITZ, REGULATING THE LIVES OF WOMEN: SOCIAL WELFARE POLICY FROM COLONIAL TIMES TO THE PRESENT 30-41 (1988) (tracing the development of the welfare state and the resulting tension between familial and social patriarchy).

Commentators view all four facets of the mythical welfare mother as negative qualities. For example, some welfare critics focus on "teenager"—the element of youth. They are concerned about "babies having babies" rather than older single mothers. See Larry D. Dorrell, *A Future At Risk, Children Having Children*, 67 CLEARING HOUSE 224, 224 (1994). Many taxpayers hate the welfare mother simply because she is "poor." These taxpayers see the welfare mother as a major drain on their resources. And, many feminist commentators identify racism as the primary force behind the attack on welfare mothers. See, e.g., Barbara Omolade, "Making Sense": Notes for Studying Black Teen Mothers, in MOTHERS IN LAW: FEMINIST THEORY AND THE LEGAL REGULATION OF MOTHERHOOD 270, 276-80 (Martha Fineman & Isabel Karpin eds., 1995) [hereinafter MOTHERS IN LAW]; Nina Perales, *A "Tangle of Pathology": Racial Myth and the New Jersey Family Development Act*, in MOTHERS IN LAW, supra, at 250, 256-59; Dorothy Roberts, *Racism and Patriarchy in the Meaning of Motherhood*, in MOTHERS IN LAW, supra, at 224, 236-40. I agree that racism is a major, and in many individual cases, the primary, motive underlying attacks on welfare mothers. There is unquestionably a strong strain of racism in the picture of the "Welfare Queen" who drives a Cadillac and spends her food stamps on alcohol. However, I remain convinced that the most influential critics of single mothers, such as David Blankenhorn, are motivated primarily by their desire to defend patriarchy. See discussion *infra* Part II.C.

³ See John Leland, *Tightening the Knot*, NEWSWEEK, Feb. 19, 1996, at 72 (examining nationwide criticism of the effects of no-fault divorce on families).

⁴ The quote is from a famous speech by Dan Quayle, then Vice President of the United States, describing the fictional television character Murphy Brown. See John E. Yang & Ann Devroy, *Quayle: Hollywood Doesn't Get It: Administration Struggles to Explain Attack on TV's Murphy Brown*, WASH. POST, May 21, 1992, at A1. Although Quayle's comments initially generated a storm of criticism, eventually the tide turned and articles supporting the Vice President's position began to appear. See, e.g., Barbara D. Whitehead, *Dan Quayle Was Right*, ATLANTIC MONTHLY, Apr. 1993, at 47. To critics of unmarried mothers, the welfare mother is the ideal paradigm, because she is already disliked for other reasons. Thus, the fictional Murphy Brown, a white, older, financially successful professional woman, can be linked to the welfare stereotype because she shares the common characteristic of singleness—like the welfare queens, she "mocks the importance of fathers."

⁵ For example, New Jersey's "Bridefare" Act encourages marriage by continuing benefits to children whose parents marry, a departure from traditional welfare rules. N.J. STAT. ANN. §§ 44: 10-3.4 to 3.7 (West 1993). See generally Perales, supra note 2, at 250-54 (analyzing the New Jersey Act and its incentives for poor women to marry). One of the stated purposes of the legislation is to "encourage the development of nuclear families through marriage." *Id.* at 253. Moreover, under the 1988 Family Support Act, states must attempt to establish paternity for all children born out of wedlock. Family Support Act, 42 U.S.C. § 652(g) (1994).

couples with children are multiplying,⁶ and at least one state is considering legislation that would ban single women from becoming pregnant through the technique of artificial insemination.⁷

Although the attacks on single women have been vicious and filled with negative stereotyping,⁸ feminists have been surprisingly slow to defend welfare mothers.⁹ This silence may be partially attributed to a general reticence among feminists to discuss women's roles as mothers.¹⁰ The concern is that motherhood is the ultimate stereotypical role for women and that by affirming motherhood we are reinforcing the "barefoot and pregnant" patriarchal vision of the way women should be.

This general reluctance on the part of feminists to discuss motherhood makes Martha Fineman's work particularly important. Fineman, a prominent feminist author, has devoted much of her professional career to discussing motherhood and its place in the legal system.¹¹ In her new book, *The Neutered Mother, The Sexual Family and*

⁶ Bills to restore fault as the only grounds for divorce have been introduced in a number of states. For descriptions of the movement to strengthen marriage by eliminating divorce, see Elizabeth Gleick, *Should This Marriage Be Saved?*, TIME, Feb. 27, 1995, at 48; Leland, *supra* note 3, at 72.

⁷ See H.R. 2303, 68th Leg., Reg. Sess. (Or. 1995). See generally O'Keefe, *supra* note 1, at B1 (describing the proposed bill and discussing the issues it raises). Banning artificial insemination for single mothers is one of the proposals offered by David Blankenhorn. See *infra* note 168 and accompanying text. For an argument that a ban on artificial insemination for single women would be unconstitutional, see Linda J. Lacey, *The Law of Artificial Insemination and Surrogate Parenthood in Oklahoma: Roadblocks to the Right to Procreate*, 22 TULSA L.J. 281, 289-94 (1987).

Even more ominous are attempts to force women on welfare to use Norplant, a long-term but possibly dangerous method of birth control. See Gwendolyn Mink, *Welfare Reform in Historical Perspective*, 26 CONN. L. REV. 879, 894-95 (1994).

⁸ For example, conservative commentator George Gilder writes, "On the whole, white or black, these women are slovenly, incompetent, and sexually promiscuous." George Gilder, *End Welfare Reform As We Know It*, AM. SPECTATOR, June 1995, at 24, 25. Members of the media frequently view welfare mothers in a negative light, and many reporters produce stories which portray these mothers as the root cause of inner city problems. See, e.g., Wahneema Lubiano, *Black Ladies, Welfare Queens, and State Minstrels: Ideological War by Narrative Means*, in RACE-ING JUSTICE, EN—GENDERING POWER: ESSAYS ON ANITA HILL, CLARENCE THOMAS, AND THE CONSTRUCTION OF SOCIAL REALITY 323, 332-33 (Toni Morrison ed., 1992); Note, *Dethroning the Welfare Queen: The Rhetoric of Reform*, 107 HARV. L. REV. 2013, 2019 (1994).

⁹ See Lucie E. White, *On the "Consensus" to End Welfare: Where Are the Women's Voices?*, 26 CONN. L. REV. 843, 847 (1994) ("Welfare was born in a women's protest against the unfair burdens that gendered institutions imposed on single mothers who worked to feed their children. Yet it is getting dismantled through a consensus in which the distinct voices of women have hardly figured at all").

¹⁰ See Mary Becker, *Maternal Feelings: Myth, Taboo and Child Custody*, 1 S. CAL. REV. L. & WOMEN'S STUD. 133, 135-42, 159-62 (1992).

¹¹ See, e.g., MARTHA A. FINEMAN, THE ILLUSION OF EQUALITY: THE RHETORIC AND REALITY OF DIVORCE REFORM (1991) [hereinafter FINEMAN, DIVORCE]; Martha A. Fineman, *Images of Mothers in Poverty Discourses*, 1991 DUKE L.J. 274; Martha L. Fineman, *Implementing Equality: Ideology, Contradiction and Social Change*, 1983 WIS. L. REV. 789; Martha A. Fineman,

Other Twentieth Century Tragedies,¹² Fineman argues convincingly that "Mother"¹³ as a symbol is under attack from both antifeminist conservatives and well-meaning liberal egalitarian feminists. Conservatives vilify all women who do not conform to conventional patriarchal models, while liberal feminists dispute the concept that a mother has a special bond with her child. Ironically, these two very different ideologies with diametrically opposed goals both help to neuter motherhood and adversely impact women. Each of these phenomena deserve even more attention than Fineman has time to give in her book and each should be the subject of continuing feminist dialogue. Because I believe that it is important for feminists to fully understand the ideological underpinnings of the attack on single mothers, I will also discuss David Blankenhorn's *Fatherless America*,¹⁴ a book which typifies the conservative attack on single mothers.

I

THE LIBERAL EGALITARIAN VISION AND THE NEUTERED MOTHER

A. The Rise and Fall of "Mother"

Fineman's chapter *The Neutered Mother* begins with the history of "Mother" in American law.¹⁵ She explains that in Colonial times, fathers were viewed as the dominant figures in children's lives, and they were granted custody in the event of a marital breakdown.¹⁶ It was only in the mid-nineteenth century, with a new emphasis on "domesticity" and the home as a "haven in a heartless world," that the importance of mothers to children was fully recognized. Although this change represented a gain for women in many respects, it was not without its dangers. Even early feminists recognized that the ideology which placed mothers in a separate sphere reinforced gendered stereotypes and confined women to narrowly drawn roles.¹⁷ Despite

Intimacy Outside of the Natural Family: The Limits of Privacy, 23 CONN. L. REV. 955 (1991); Martha A. Fineman, *Legal Stories, Change, and Incentives—Reinforcing the Law of the Father*, 37 N.Y.L. SCH. L. REV. 227 (1992); Martha A. Fineman, *Our Sacred Institution: The Ideal of the Family in American Law and Society*, 1993 UTAH L. REV. 387; Martha A. Fineman, *The Neutered Mother*, 46 U. MIAMI L. REV. 653 (1992) (hereinafter Fineman, *The Neutered Mother*). Fineman has also co-edited a collection of essays about the legal aspect of motherhood. See MOTHERS IN LAW, *supra* note 2.

¹² MARTHA A. FINEMAN, *THE NEUTERED MOTHER, THE SEXUAL FAMILY AND OTHER TWENTIETH CENTURY TRAGEDIES* (1995).

¹³ Fineman makes a deliberate choice to capitalize Mother to emphasize the symbolism of the word. See discussion *infra* Part III.A.

¹⁴ DAVID BLANKENHORN, *FATHERLESS AMERICA: CONFRONTING OUR MOST URGENT SOCIAL PROBLEM* (1995).

¹⁵ See FINEMAN, *supra* note 12, at 79-87.

¹⁶ See *id.* at 76-77.

¹⁷ See *id.* at 77-78.

these concerns, Fineman argues, the shift to maternal preferences in custody disputes and other legal recognitions of the importance of mothers "had unrealized radical potential to empower mothers within the context of divorce."¹⁸

By the early 1970s, the legal vision of motherhood changed again. Liberal feminists argued, usually successfully, that the tender years doctrine, which created a custodial preference for the mother of a child under the age of seven, reinforced gender stereotypes and violated equal protection principles.¹⁹ More broadly, many contemporary feminists have repudiated the idea that women have special roles as mothers.²⁰ As a replacement, they offer the ideal of the genderless family in which husband and wife share child care and household chores. "Mother" is replaced by "Parent."

B. Selfless Moms and Domestic Goddess: The Williams Version

The liberal rejection of the symbol of Mother and all its connotations is consistent with the liberal and postmodern attack on those feminists who emphasize the importance of relationships and nurturing.²¹ As Fineman notes, "To be a legal theorist concerned with mothering in any positive sense has been to risk the dismissive label of 'cultural feminist,' meaning that one's work is in danger of being relegated to the margins of feminist theory."²²

The prominent postmodern/liberal feminist Joan Williams²³ has been the most relentless critic of the "domesticity"²⁴ aspect of cultural

¹⁸ *Id.* at 78.

¹⁹ A typical criticism is Mary Joe Frug's assertion that the doctrine "maternalizes" the female body. Mary Joe Frug, *A Postmodern Feminist Legal Manifesto (An Unfinished Draft)*, 105 HARV. L. REV. 1045, 1061 (1992). For a defense of the doctrine, see Ramsay L. Klaff, *The Tender Years Doctrine: A Defense*, 70 CAL. L. REV. 335 (1982). Many feminists, including Fineman, advocate the primary years doctrine as an alternative to the tender years doctrine. FINEMAN, DIVORCE, *supra* note 11 at 180-184.

²⁰ See Becker, *supra* note 10.

²¹ These feminists are often classified as "cultural feminists." Definitions of cultural feminism vary. See Linda J. Lacey, *We Have Nothing To Fear But Gender Stereotypes: Of Katie and Amy and "Babe Feminism"*, 80 CORNELL L. REV. 612, 615-17 (1995) (book review). Leslie Bender, a cultural feminist, refers to a "school of feminist theory that acknowledges women's gender differences." Leslie Bender, *From Gender Difference to Feminist Solidarity: Using Carol Gilligan and an Ethic of Care in Law*, 15 VT. L. REV. 1, 1-2 (1990).

²² MOTHERS IN LAW, *supra* note 2, at xii.

²³ See Joan C. Williams, *Deconstructing Gender*, 87 MICH. L. REV. 797 (1989); Joan C. Williams, *Dissolving the Sameness/Difference Debate: A Post-Modern Path Beyond Essentialism in Feminist and Critical Race Theory*, 1991 DUKE L.J. 296; Joan Williams, *Gender Wars: Selfless Women in the Republic of Choice*, 66 N.Y.U. L. REV. 1559 (1991) [hereinafter Williams, *Gender Wars*]. Although Williams describes herself as a postmodernist, other commentators have characterized her as modernist. See, e.g., Dennis Patterson, *Postmodernism/Feminism/Law*, 77 CORNELL L. REV. 254, 294-95 (1992).

²⁴ Williams claims that cultural feminists have succumbed to an "ideology of domesticity." Williams, *Gender Wars*, *supra* note 23, at 1566. For a critique of this assertion, see

feminism. In *Gender Wars: Selfless Mothers in the Republic of Choice*,²⁵ she argues that a seemingly voluntary decision by a mother to stay home or work part time is so shaped by patriarchal forces that it is really no choice at all. Women are either forced to take care of their children at home because of a lack of alternatives,²⁶ or they are brainwashed by ideals of selfless motherhood. In short, they are draftees not volunteers.²⁷

Williams describes the "selfless mother" as a negative counterpart to Fineman's symbolic Mother. Williams sees this selfless mother as a victim of gender ideology, trapped by the notion that good mothers must devote all their time to their children.²⁸ Because a selfless mother has not realized her potential and is "marginalized" in the workplace, Williams contends that she must be replaced by a shared parenting model.²⁹

It is unquestionably true that many women "choose" to stay home because of constraints such as an inflexible workplace, lack of affordable childcare, or an unsupportive spouse.³⁰ However, there are also women who have supportive spouses, flexible jobs, challenging careers, and the financial resources for excellent child care but nevertheless decide to remain home with their children. These women, according to Williams, are "guilted" into staying at home by external and internal visions of selfless motherhood.³¹ It is this part of Williams's argument that I believe fails to understand many women's actual motives for remaining home with their children.

Linda J. Lacey, *Mimicking the Words, But Missing the Message: The Misuse of Cultural Feminist Themes in Religion and Family Law Jurisprudence*, 35 B.C. L. REV. 1, 33-37 (1993).

²⁵ See Williams, *Gender Wars*, *supra* note 23.

²⁶ See *id.* at 1594-1608.

²⁷ This description is from Karen Czapanskiy, *Volunteers and Draftees: The Struggle For Parental Equality*, 38 UCLA L. REV. 1415, 1416 (1991). Ironically, it is echoed by David Blankenhorn who asserts that "men do not volunteer for fatherhood as much as they are conscripted into it by the surrounding culture . . ." BLANKENHORN, *supra* note 14, at 3.

²⁸ See Williams, *Gender Wars*, *supra* note 23, at 1608-29. Williams rejects arguments that she is projecting a notion of false consciousness in her discussion of choice or that she is patronizing in her description of women's decisions. She replies that "[t]he 'free choice versus false consciousness' model makes it seem as though any attempt to challenge patriarchal constraints signals disrespect for women who work within them. However, one can appreciate women's ingenuity and dignity without failing to note how their lives could be improved if those constraints were changed." *Id.* at 1614. For an interesting critique of Williams's work, see generally Kathryn Abrams, *Ideology and Women's Choices*, 24 GA. L. REV. 761 (1990) (raising the false consciousness issue).

²⁹ See Williams, *Gender Wars*, *supra* note 23, at 1633-44.

³⁰ See generally ARLIE HOCHSCHILD & ANNE MACHUNG, *THE SECOND SHIFT: WORKING PARENTS AND THE REVOLUTION AT HOME* (1989) (presenting an excellent discussion of the constraints working mothers face which may force them to give up their jobs).

³¹ See Williams, *Gender Wars*, *supra* note 23, at 1612-32.

C. The Selfless/Selfish Dichotomy

Although Williams criticizes the traditional dichotomy between selfless behavior (identified with women who quit their jobs to spend more time with their children)³² and selfish behavior (identified with men and women who work outside the home),³³ she implicitly accepts its basic premises. Williams assumes that taking care of children full time is so difficult and unrewarding that no one but a saint would choose to do it. But definitions of selfish behavior vary. In the 1960s, women who wanted to have children were routinely denounced with rhetoric like “don’t you think it’s selfish to bring another child into the world today?” Prospective adoptive parents must write essays describing their reasons for wanting a child, and it is surprisingly hard to come up with reasons that sound as noble and selfless as the adoption agencies presumably require. The reality is that motherhood is a complex role that combines benefits and burdens, pleasure and sacrifice.³⁴ Most women choose to become mothers because they anticipate that children will bring joy and fulfillment to their lives, not because they are brainwashed martyrs.

Although feminist law professors can easily understand why their colleagues want to reject traditional marketplace goals in academia,³⁵ we seem to have difficulty understanding why nonacademic women reject traditional marketplace goals in other fields. The idea of a mommy track has been greeted with almost universal disapproval by feminists,³⁶ but apart from the derogatory image that may be associated with the title, the option of becoming a permanent part-time as-

³² See *id.* at 1595-1608.

³³ See *id.* Williams’s selfish career women/selfless mothers model is premised upon marriage to an unsupportive spouse who prefers his wife not to work or who refuses to do his share of childraising. This stereotype is usually accurate, but some husbands desire the extra income generated by a working wife and regard a woman’s insistence on staying home with the children as selfish.

³⁴ For a thorough discussion of the benefits and burdens of parenthood, see Becker, *supra* note 10.

³⁵ During the University of Tulsa Law School’s last dean search, I was disappointed to discover that only two of the applicants were women. A friend on the dean search committee told me she wasn’t surprised, because, after all, “women have too much sense to want to be deans.” My friend’s comment is, of course, sadly essentialist, but is it also vulnerable to the other accusation frequently hurled at cultural feminists—does it reinforce traditional stereotypes? The answer is likely to be no, because most academics would accept an even broader generalization—most law professors have too much sense to want to be deans. This fact seems so obvious to most law teachers that we forget that it seems implausible to outsiders. I am frequently told by well-meaning relatives and friends that they are pleased that I am doing well in my career and that if I continue to work hard I will undoubtedly become a dean one day. My claims of lack of interest are met with polite skepticism, since deans usually make more money than teachers and have more prestige.

³⁶ See, e.g., Williams, *Gender Wars*, *supra* note 23, at 1609.

sociate, with more time to spend with children, may be a desirable alternative for many women.³⁷

Just as "pink collar" jobs have a lower status in patriarchal western societies, "Mother" jobs seem to have a lower status in Williams's value system. When Williams writes that "the rhetoric of choice veils the extent to which entitlement to self development is gendered in contemporary American life,"³⁸ she assumes that self-development comes only through work. This statement typifies the phenomena Fineman identifies, the failure of contemporary feminists to recognize the self-knowledge and personal development that can come from interaction with children.³⁹

Williams pays lip service to the rewards and joys of parenthood, but this acknowledgement is overshadowed by her conviction that only guilt prompts women to spend time away from work to be with their children. As a result, she misunderstands the significance of her own stories. For example, she discusses a woman who quit her job after learning that her son had taken his first step, saying "I realized that his first year had gone so quickly, I had been like a visitor in his life."⁴⁰ Williams hears these words as affirming her thesis that "women tend to internalize the conflict they feel between their sense of what is delegable and their sense of what constitutes performing as a responsible worker."⁴¹ A more likely scenario is that this woman became keenly aware of the fleeting nature of childhood and did not want to miss the daily pleasures of seeing her child grow and change. Job opportunities come and go, but we only get one chance to see our child's first step. As Anna Quindlen explains:

They are not long, the days of construction paper and gilded rigatoni. That's why we save those things so relentlessly, why the

³⁷ This is not to suggest that I disagree with Williams's calls for workplace reform or her argument that an overemphasis on "choice" can obscure that need. But her calls are probably unrealistic in an era of widespread unemployment. Moreover, the "workaholic" demands of many jobs are not formally built into the structure—they vary according to subtle pressures. Changes in formal structural contours such as required working hours are important and will help, but they will not make the problem disappear. Williams is irritated by a statement from Patricia Wald that female lawyers may have to choose between parenthood and litigation practice. Williams, *Gender Wars*, *supra* note 23, at 1611 (quoting Patricia M. Wald, *Women in the Law*, TRIAL, Nov. 1988, at 78). I find the advice realistic. No foreseeable amount of reform is going to change the fact that most litigators work unpredictable hours, experience a good deal of stress, and travel frequently. The danger I see in Williams's assumption that anyone can easily combine a career in litigation with parenting is that she is positing the classic "superwoman"—an unobtainable ideal which has generated a great deal of stress for many women.

³⁸ *Id.* at 1617.

³⁹ See FINEMAN, *supra* note 12, at 51-54. On a personal level, I have found that answering my children's questions about death and religion forces me to examine my own beliefs in a far more meaningful way than does writing law review articles.

⁴⁰ Williams, *Gender Wars*, *supra* note 23, at 1620.

⁴¹ *Id.*

sisterhood of motherhood, those of us who can instantly make friends with a stranger by discussing colic and orthodonture, have as our coat of arms a sheet of small handprints executed in finger paint.

Every day, we move a little closer to the sidelines of their lives, which is where we belong, if we do our job right.⁴²

D. The Myth of No Hard Choices Parenthood: The Shared Parenting Model

Williams concludes with a “radical” vision of the way things should be for women who are also parents.⁴³ She writes:

[T]he solution lies in our ability to pretend—just for a moment—that a responsible parent, *male or female*, is one whose work life enables him or her to meet nondelegable children’s needs without demanding that the child’s other parent carry a disproportionate burden of the child’s parenting, at the cost of his or her access to the conventional paths to societal recognition, accomplishment, and self-development.⁴⁴

By making supportive men the focal point of her solution to the “problem” of selfless mothers, Williams falls into the trap Fineman describes—she defines women as needing husbands.⁴⁵ There is nothing wrong with supportive spouses. I have one myself and am deeply grateful for his contributions to childraising. But the reality is that the equal partner heterosexual marriage model⁴⁶ will work for only a limited number of women.

By promoting an egalitarian shared parenting model as the ultimate solution to working mothers’ problems, Williams also underestimates the need for hard choices that all mothers must make. Work demands are not always external, and they are not always unfair or unrealistic. One of the reasons Williams’s analysis doesn’t ring true for me is that I have the utopian existence she imagines, and I continue to feel, on a daily basis, that I must make difficult choices with no clear answers. I am a tenured law professor with an incredibly flexible workplace, and my husband shares an equal amount of parenting responsibility. But my time constraints have not disappeared. A child’s needs are without limit; most children want total attention

⁴² ANNA QUINDLEN, *THINKING OUT LOUD* 83 (1993).

⁴³ See Williams, *Gender Wars*, *supra* note 23, at 1633-34.

⁴⁴ *Id.* at 1634.

⁴⁵ See FINEMAN, *supra* note 12, at 161-66.

⁴⁶ Although Williams’s model appears to ignore the existence of lesbian relationships, it may be unfair to say that this was her goal. Most of her language is gender neutral, and the shared parenting solution she proposes could work equally well with two lesbian parents.

twenty-four hours a day.⁴⁷ Every parent must make difficult decisions about priorities. Williams's statement that "[m]en feel entitled to simultaneous self-development in both work and family life as an element of their manhood, even if their wives have to sacrifice their own career aspirations"⁴⁸ echoes the common feminist complaint that men have always "had it all" when it comes to work and parenthood. This statement ignores the complexity of parenthood. A man who spends the average fifteen to twenty minutes a day with his children⁴⁹ can technically call himself a father, but his experiences will be very different from that of a Mother spending five or six hours a day with her children. Williams discusses at length her theory that women are marginalized in the workplace, but she fails to understand that most traditional fathers are "marginalized" as parents and that this marginalization also has its costs. No parent can really "have it all." Time is always finite. No shared parenting model allows a parent to attend a school play and a committee meeting at the same time.

E. Consequences of the Neutering of Mother: The Deviant Mother Model

For many feminists, there is an initial, surface appeal to the liberal critique of idealized visions of women as mothers. One of the principal goals of feminism is to allow women the opportunity to break away from gendered roles, and "Mother" is perhaps the most confining of all of these roles. As a result, many feminists enter into what Mary Becker describes as a "conspiracy of silence [which] forbids discussion of what is common knowledge: mothers are usually emotionally closer to their children than fathers."⁵⁰

But despite its surface appeal, the denial of women's special roles as mothers also has its dangers. The reality is that most women are more committed parents than most men. When we try to avoid this reality with an artificial model of gender neutral parenthood, we do so at our peril. As Fineman explains, the neuterization of mothers has produced severe real-world consequences for women. Some studies show that women are more likely than men to lose custody in a disputed battle,⁵¹ and women are vulnerable to a threat of a custody bat-

⁴⁷ This is not to say that giving children an unlimited amount of attention is necessarily desirable. Too much attention can probably be as harmful as too little attention, but deciding what is "too much" or "too little" is one of the hardest jobs a mother faces.

⁴⁸ See Williams, *Gender Wars*, *supra* note 23, at 1617.

⁴⁹ See JUDITH AREEN, *CASES AND MATERIALS ON FAMILY LAW* 195 (3d ed. 1992); Becker, *supra* note 10, at 154-58.

⁵⁰ Becker, *supra* note 10, at 137. In the same article, Becker describes Martha Fineman as an exception to this phenomenon. See *id.*

⁵¹ See, e.g., Nancy D. Polikoff, *Why Are Mothers Losing: A Brief Analysis of Criteria Used in Child Custody Determinations*, 7 *WOMEN'S RTS. L. REP.* 235, 236-37 (1982); AREEN, *supra* note 49, at 522.

tle as a "bargaining chip" in economic negotiations.⁵² This dynamic contributes to the well-documented feminization of poverty.⁵³

In her chapter *The Deviant Mother*,⁵⁴ Fineman describes in detail the phenomenon of the attack on single mothers. Any woman who has defied the norms of patriarchy by attempting to raise a child without a man becomes a deviant mother, the cause of all of society's problems. Rhetoric blaming crime, poverty, drug addiction, and illegitimacy on single mothers has become almost boilerplate in discussions of welfare reform. Fineman provides a thorough discussion of the ways in which the concept of deviancy has shaped the welfare debate.⁵⁵ Liberal feminists' insistence on gender neutral language removes from women on welfare one of their most sympathetic characteristics: the fact that they are Mothers. Stripped of this positive symbolism, which once made them part of the deserving poor,⁵⁶ they become easy targets for attack. Williams's statements about the romanticization of selfless stay-at-home mothers are only true for middle class, white mothers.⁵⁷ In an internally contradictory stance, conservatives who extol "family values" also want to "put welfare mothers to work,"⁵⁸ an attitude that implies taking care of children is not work. Unfortunately, their arguments may be bolstered by liberal feminists. Fineman argues that

[t]he liberal feminist valuing of market work for women has been broadened from its initial conception as an ideal *option* for middle class and professional women. The current rhetoric on the appro-

⁵² See Linda J. Lacey, *Mandatory Marriage "For the Sake of the Children": A Feminist Reply to Elizabeth Scott*, 66 TUL. L. REV. 1435, 1458-59 (1992). This article also includes a discussion of the dangers of ignoring women's roles as mothers in divorce reform proposals. *Id.* at 1453-65.

⁵³ See *infra* Part II.B.

⁵⁴ FINEMAN, *supra* note 12, at 101.

⁵⁵ See *id.* at 106-18. Fineman also discusses ways in which divorced single mothers are affected by their negative image. *Id.* at 118-22.

⁵⁶ In the past, the model of the widow with children was an example of the deserving poor. See generally Larry C. Backer, *Welfare Reform at the Limit: The Futility of "Ending Welfare As We Know It,"* 30 HARV. C.R.-C.L. L. REV. 339 (1995) (arguing that sociocultural norms, not economic realities, drive welfare policy).

⁵⁷ As a number of commentators have noted, black women have always been expected to work outside the home. See Dorothy E. Roberts, *The Value of Black Mothers' Work*, 26 CONN. L. REV. 871, 873-78 (1994). As Roberts explains, "Americans expected Black mothers to look like Aunt Jemima, working in somebody else's kitchen . . . American culture reveres no Black madonna; it upholds no popular image of a Black mother nurturing her child." *Id.* at 875. Roberts's comments raise a potentially troubling issue regarding Fineman's emphasis on a symbolic Mother—the possibility that "Mother" may be only white and middle class.

⁵⁸ This is the basic theme of the so-called "Personal Responsibility" Act, a nickname for the recently-enacted welfare reform, the title of which clearly implies welfare mothers lack responsibility. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (current version at 2 U.S.C.S. § 901 (1996)). See generally Backer, *supra* note 56, for a provocative analysis of this reform.

priate relationship between women and market work establishes it as a universal and mandatory *requirement* for all women, mothers or not. . . .

. . . the shift in policy has operated to harm the most disadvantaged and defenseless mothers.⁵⁹

Feminists who theorize that requiring welfare mothers to work empowers them⁶⁰ are ignoring the realities of these women's lives.⁶¹

Discussions of welfare mothers almost never focus on the difficulty of obtaining suitable child care. Although child psychologists continue to disagree as to whether child care is ever desirable for children younger than five,⁶² there is universal theoretical agreement, supported by growing statistical evidence, that low-quality child care has severely detrimental effects on a child's intellectual and psychological growth.⁶³ And the unspoken truth is that low-quality child care is all that welfare children are going to receive. Only nineteen states require training for family day-care providers,⁶⁴ and less than half of the states require the child/staff ratio recommended by the National Association for the Education of Young Children.⁶⁵ Even centers that are safe frequently fail to provide intellectually stimulating programs;

⁵⁹ Fineman, *The Neutered Mother*, *supra* note 11, at 661.

⁶⁰ See, e.g., Johanna Brenner, *Towards a Feminist Perspective on Welfare Reform*, 2 YALE J.L. & FEMINISM 99 (1989).

⁶¹ The liberal view of the parent as a completely autonomous individual ignores the way in which a mother's life is inevitably interwoven with that of her children. For example, many unemployment boards will not consider parenting responsibilities as "good cause" for leaving a job or refusing certain types of jobs. In one case, an unemployment board denied benefits to a mother who had a chronically ill child and was not able to find anyone to care for the child. See *McCourtney v. Imprimis Tech., Inc.* 465 N.W.2d 721 (Minn. 1991). The woman was dismissed due to her absences, and the board considered her decision to stay at home with the child as evidence of bad faith. She had contacted one agency, who would not let her interview prospective caregivers. When I asked my family law class if this factor alone would justify her absences, most of the men said it would not. The women, many of whom were also mothers, expressed justifiable outrage at the idea that a parent should be forced to leave her child with a complete stranger.

⁶² See, e.g., T. BERRY BRAZELON, *INFANTS AND MOTHERS* 172-75 (1983); THERESA & FRANK CAPLAN, *THE EARLY CHILDHOOD YEARS* 316-20 (1983); SEYMOUR FISHER & RHODA L. FISHER, *WHAT WE REALLY KNOW ABOUT CHILD REARING* 184-89 (1976); DR. BENJAMIN SPOCK, *BABY AND CHILD CARE*, 421-28 (1976).

⁶³ See BRAZELON, *supra* note 62, at xxvii ("Without the advantage of a stimulating, individualized environment in infancy, a child's future development will be impaired."); Kathy R. Thornburg et al., *Development of Kindergarten Children Based on Child Care Arrangements*, in 5 EARLY CHILDHOOD RES. Q. 27-42 (1990). The authors conclude that "[e]ffects on children's intellectual, motor, and social development vary based on the quality of their early care environment and the training/experience of their caretakers." *Id.* at 40. See also Sandra Scarf & Marlene Eisenberg, *Child Care Research: Issues, Perspectives, and Results*, 44 ANNU. REV. PSYCHOL. 613, 620 (1993) (arguing that low quality care "puts children's development at risk for poorer language and cognitive scores and lesser ratings of social and emotional adjustment").

⁶⁴ See CTR. FOR POLICY RES., NAT'L GOVERNORS ASS'N, *TAKING CARE: STATE DEVELOPMENTS IN CHILD CARE* 6 (1990) [hereinafter *TAKING CARE*].

⁶⁵ See *id.* at 4.

the television set has become a cheap baby sitter for children as young as two years.⁶⁶

Excellent child-care programs are available, but at their unsubsidized costs they are prohibitively expensive to lower income women.⁶⁷ For example, Temple Israel, one of the best child-care faculties in Tulsa, Oklahoma, currently charges \$450 per child, per month.⁶⁸ This means that a single mother of four children would pay \$21,000 yearly for child care, an amount clearly beyond the means of a poverty level parent. Additionally, many high-quality child care centers do not cover the night and weekend work that welfare mothers will be forced to take. Under the existing system, lower income women already spend approximately twenty-one percent of their income on child care, usually of poor quality, compared with seven percent by women in nonpoverty-line families.⁶⁹ The disparity between privately obtained child care and publicly subsidized child care, the only option available to low-income mothers, is staggering. It is estimated that forty-four states appropriated a total of one billion dollars in 1989 to public child care.⁷⁰ Unless the state and federal governments are willing to drastically increase subsidized child care, which seems unlikely,⁷¹ mothers should, in many instances, be allowed to choose to stay home to take care of their pre-school children.

II

THE ATTACK ON SINGLE MOTHERS AND "BROKEN" FAMILIES: BLANKENHORN'S FATHERLESS AMERICA

A. The Reality Behind the Rhetoric About Fathers

After discussing the demonization of single mothers, Fineman identifies the hidden ideology behind rhetoric about the importance of fathers:

⁶⁶ The negative effect of too much television on children's intellectual growth has been well documented. See, e.g., MARIE WINN, *THE PLUG-IN DRUG* (1977). Statistics indicate that children already watch up to four or five hours of television at home, which makes the excessive use of television in child care even more problematic. See *id.* at 93.

⁶⁷ As the well-known child care expert Dr. Spock explains, "Well-trained teachers, plenty of equipment, indoor and outdoor space are all necessary and all cost money. Good schools are never cheap, because a teacher can satisfactorily take care of only a small number of children." SPOCK, *supra* note 62, at 427.

⁶⁸ See Temple Israel Day Care Center brochure (on file with author). This is not an especially high amount; costs of high-quality child care centers in eastern cities, where the cost of living is higher than Tulsa's, can run up to a thousand dollars a month.

⁶⁹ See MARTIN O'CONNELL & AMARA BACHU, *WHO'S MINDING THE KIDS? CHILD CARE ARRANGEMENTS*, Fall 1988, 17-18 (1990) (Bureau of the Census, U.S. Dep't of Commerce, Current Population Reports-Household Economic Studies Series P-70, No. 20).

⁷⁰ See *TAKING CARE*, *supra* note 64, at 17.

⁷¹ It should also be noted that private day-care centers are not required to accommodate special-needs children. Requiring them to do so, in accordance with federal law, would add considerably to their costs.

There is a tendency to use "fatherhood" in fathers'-rights discourses as interchangeable with traditional notions of masculinity. Fathers' rights in a broad sense, therefore, become a defense of culturally dominant images and practices of masculinity. This is certainly a subtext to much of the rhetoric, although it is a point seldom engaged directly. Fatherhood is, after all, an "essential" form of *male* behavior and, as male behavior, it is profoundly affected, defined, even confined, by societal representations. On that level, control, dominance, and independence are quintessentially masculine. The success of single mothers would be a blow to traditional masculinity.⁷²

Undoubtedly there are critics who will read Fineman's thesis with skepticism and dismiss it as exaggerated or paranoid. But a review of most conservative writing on the subject of single mothers and/or welfare illustrates the validity of Fineman's assertions. A particularly graphic example is David Blankenhorn's popular book, *Fatherless America*,⁷³ a work which has been greeted with popular acclaim and which has made its author the leading spokesman for fathers.⁷⁴ A careful reading of Blankenhorn's work demonstrates the accuracy of Fineman's theory that fathers' rights advocates are really defending much more than fatherhood—they are defending patriarchy itself.

Fatherless America begins with the statement that "in some respects it has been all downhill for fathers since the industrial revolution."⁷⁵ The author recites statistics about the increase in out-of-wedlock births and divorces, and concludes that "about 40 percent of American children will go to sleep in homes in which their fathers do not live."⁷⁶ This fact, according to Blankenhorn, spells total disaster, for "fatherlessness is the most harmful demographic trend of our generation. It is the leading cause of declining child well-being in our society. It is also the engine driving our most urgent social problems, from crime to adolescent pregnancy to child sexual abuse to domestic violence against women."⁷⁷ Blankenhorn argues that fatherlessness is harmful in two ways. First, it is bad for children because it places them in poverty and denies them positive role models. Second, it is

⁷² FINEMAN, *supra* note 12, at 205.

⁷³ BLANKENHORN, *supra* note 14.

⁷⁴ See, e.g., Elizabeth Mehren, *Father Crusader: Who is David Blankenhorn? And Why is He So Insistent That Missing Fathers are Responsible for Most of Society's Ills—and That Only a Return to the Traditional Dad Will Do?*, L.A. TIMES, Mar. 8, 1995, at E1 (noting that "[w]ith his book, his think tank and his powerful arsenal of facts about fatherhood, Blankenhorn has taken the helm as de facto navigator. Far from promising a trouble-free voyage, he has begun making giant waves. . . . His name seems to be popping up everywhere . . .").

⁷⁵ BLANKENHORN, *supra* note 14, at 13.

⁷⁶ *Id.* at 1.

⁷⁷ *Id.*

bad for society at large because it removes an important civilizing agent for men.

B. Harm to Children

For a book about fathers, Blankenhorn's text is surprisingly short on references to children, who appear as almost an afterthought to his real concerns. There is little discussion of the emotional support fathers present to children and little mention of the positive rewards of the father/child relationship.⁷⁸ Instead Blankenhorn focuses on the negative effects on children who grow up without traditional fathers, which he summarizes as catastrophic: "fatherless"⁷⁹ children are denied "basic benefits—psychological, social, economic, educational, and moral."⁸⁰ This conclusion, he asserts, is supported by numerous studies which document the negative effects of single parenthood on children. According to Blankenhorn, lack of a father causes boys to become criminals⁸¹ and girls to become promiscuous.⁸²

It is unquestionably true that numerous studies exist which purport to show that children in single-parent homes perform less well in school and are more prone to criminal activity than children raised in traditional two-parent homes. In her famous article, *Dan Quayle Was Right*,⁸³ author Barbara Whitehead claims: "Taken together, the research presents a powerful challenge to the prevailing view of family change as social progress. . . . All this evidence gives rise to an obvious conclusion: growing up in an intact two-parent family is an important source of advantage for American children."⁸⁴ Feminists who wish to defend single mothers cannot ignore the existence of these studies. However, there is surprisingly little critical analysis of these studies,⁸⁵

⁷⁸ Indeed, Blankenhorn explicitly rejects the so-called "New Father-model" of the father who spends a great deal of time nurturing his children. See *infra* Part II.C.

⁷⁹ I put the word in quotes, because Blankenhorn's "fatherless society," like Fineman's Mother, is largely symbolic. Blankenhorn includes in his definition of "fatherless children" children with stepparents, or those in joint custody arrangements in which they spend half their time with their father. See discussion *infra* Part II.C. Most people would not describe these children as fatherless.

⁸⁰ BLANKENHORN, *supra* note 14, at 1.

⁸¹ See *id.* at 26-32.

⁸² See *id.* at 45-48. Blankenhorn's basic theory is that girls without fathers spend their lives desperately seeking male approval and love.

⁸³ Whitehead, *supra* note 4, at 47. It is worth noting that Whitehead is affiliated with Blankenhorn's think-tank and is acknowledged in the introduction to *Fatherless America* as contributing "heavily" to the first three chapters of the book. See BLANKENHORN, *supra* note 14, at vii.

⁸⁴ Whitehead, *supra* note 4, at 77.

⁸⁵ There are a few works on feminist jurisprudence which provide good starting points. One of the best discussions of the flaws inherent in studies regarding children of single-parent families is Susan B. Apel, *Communitarianism and Feminism: The Case Against the Preference for the Two Parent Family*, 10 WIS. WOMEN'S L.J. 1 (1995). See also Omolade, *supra* note 2.

many of which are conducted by biased conservative groups.⁸⁶ In one of her earlier books, *The Illusion of Equality*, Martha Fineman documents some of the underlying biases and flaws in studies on children of divorce.⁸⁷ The lack of a similar discussion in *The Neutered Mother* is one of the few disappointing aspects of the book.

Although critical analysis of studies of single-parent families is far too scarce, commentators have identified two basic shortcomings. The studies generally fail to separate the negative effects of poverty from the allegedly negative effects of single-parent models, and they inevitably suffer from lack of a meaningful comparison model.⁸⁸

In one of their few areas of agreement, both Fineman and Blankenhorn document the correlation between woman-headed households and poverty.⁸⁹ Although there is disagreement about the scope of the problem, there is virtually unanimous consensus that children living in families with single mothers are more likely to live in poverty than children in two-parent families.⁹⁰ Fineman, however, views the poverty of single mothers as the heart of the problem, and as the primary reason why children of single-mother households may perform less well in school.⁹¹ Blankenhorn, on the other hand, views the eco-

⁸⁶ There has been a proliferation of "pro-family" think-tank groups in the last five years, all of which disseminate information designed to prove the importance of the traditional father family model. For example, a group called "The National Father Initiative" disseminates data which purports to show that "father absence is a national crisis." National Fatherhood Initiative, National Fatherhood Initiative to Release Complete Data on Father Absence, Launch National Fatherhood Tour on March 7 (Feb. 22, 1995) (press release, on file with author). The Family Research Council emphasizes and promotes traditional values and Biblical principles. The Family Research Council, *Who Is FRC?* (visited Oct. 12, 1996) <<http://www.heritage.org/townhall/FRC/whois/whois.html>>. And as discussed *supra* note 83, Barbara Whitehead, author of the famous *Dan Quayle Was Right* article, see *supra* note 4, is not an unbiased commentator, she is a Research Fellow of Blankenhorn's Institute for American Values.

⁸⁷ See FINEMAN, *DIVORCE*, *supra* note 11, at 109-43. Fineman argues that "[s]ocial science information is being used in the debate over custody rules without being subjected to any really critical examination and without being put in the context of the forces producing and urging changes in the area." *Id.* at 142. This analysis applies with equal force to studies used in the debate over welfare reform.

⁸⁸ In addition, several studies fail to consider the age of the mother as a factor in their results. Since unwed mothers tend disproportionately to be teenagers and teenagers may have poorer parenting skills than older parents, this factor may be significant in explaining performance differences between single and two-parent children. See Marguerite S. Barratt et al., *Single Mothers and Their Infants: Factors Associated With Optimal Parenting*, FAMILY RELATIONS 448 (October 1991) (discussing the importance of maternal age as a factor in evaluating maternal performance).

⁸⁹ See BLANKENHORN, *supra* note 14, at 42-45; FINEMAN, *supra* note 12, at 106-18.

⁹⁰ See generally Audrey Rowe, *The Feminization of Poverty: An Issue For the Nineties*, 4 YALE J.L. & FEMINISM 73 (1991). For a list of representative studies documenting the fact that women's incomes decrease after divorce, see KATHARINE T. BARTLETT, *GENDER AND LAW: THEORY, DOCTRINE, COMMENTARY* 348-49 (1993).

⁹¹ See FINEMAN, *supra* note 12, at 104-06. Fineman quotes the authors of one major study as concluding "Families in which the father has never been present are often chronically poor, and it may be this poverty, rather than a rapid change in family structure or

conomic status of single mothers as just another symptom of the real "disease": the failure of women to conform to traditional patriarchal models.⁹² He conveniently ignores the existence of studies suggesting "that the main problem in single-mother families is not the absence of a male but rather the lack of income produced by a male."⁹³

In addition to their failure to separate the negative effects of living in poverty from the negative effects of not having a traditional live-in father, studies conducted on children of divorced or other single-parent families have an inherent flaw: they cannot possibly compare the actual lives of the children studied to the theoretical lives they might have lived if their mother had married or the divorce had not occurred. Studies purport to use control groups of children of intact marriages for comparison, but the comparisons are inevitably inaccurate. Generalizations are virtually meaningless. As Tolstoy observed, "Happy families are all alike; every unhappy family is unhappy in its own way."⁹⁴ It is impossible to know whether a given child would be happier in a troubled-but-intact family or in a single-parent family.

Moreover, commentators like Blankenhorn choose to ignore the existence of another well established group of studies—those which document the effect of violence on children.⁹⁵ Children exposed to abusive marriages tend to repeat the cycle of violence when they become adults: "Violence begets violence."⁹⁶ It seems clear that for the children of the approximately three to four million women beaten by their husbands or boyfriends every year,⁹⁷ a single parent family is preferable to a violent home.⁹⁸

income, that accounts for any negative health consequences." *Id.* at 105 (quoting RONALD ANGEL & JACQUELINE ANGEL, *PAINFUL INHERITANCE: HEALTH AND THE NEW GENERATION OF FATHERLESS FAMILIES* 104-05 (1993)).

⁹² Blankenhorn asserts that "characterological disinvestment by fathers is harder to quantify than economic disinvestment, but it is far more important." BLANKENHORN, *supra* note 14, at 45. By this he means that fathers are necessary to build character in their children, primarily through their reaffirmation of traditional sex roles.

⁹³ Douglas B. Downey, *The School Performance of Children From Single-Mother and Single-Father Families: Economic or Interpersonal Deprivation?*, J. FAM. ISSUES, March 1994, at 129, 132 (presenting a review of the literature on single-parent families and suggesting that income is the key factor in determining the effects on children).

Blankenhorn does purport to discuss one study which challenges the negativism about children living in single-mother households, *see* BLANKENHORN, *supra* note 14, at 70-72, but his analysis does not discuss the effect of poverty on these children.

⁹⁴ LEO TOLSTOY, *ANNA KARENINA* 3 (Leonard J. Kent & Nina Berberova eds. & Constance Garnett trans., Random House 1965).

⁹⁵ *See* Mildred D. Pagelow, *Effects of Domestic Violence on Children and Their Consequences for Custody and Visitation Agreements*, 7 MEDIATION Q. 347, 348-53 (1990).

⁹⁶ MURRAY A. STRAUS ET AL., *BEHIND CLOSED DOORS: VIOLENCE IN THE AMERICAN FAMILY* 121 (1980).

⁹⁷ *See* BARTLETT, *supra* note 90, at 527 (citing statistics collected by the Federal Bureau of Investigation).

⁹⁸ Blankenhorn does acknowledge the existence of domestic violence, but with a perverse and outrageous twist. He blames women for the violence directed against them and

Some critics may agree that divorce is best for children in violent relationships, but will at the same time argue that when a marital relationship is nonviolent—when the parties are simply bored or interested in another person—then preserving a marriage is better for the children.⁹⁹ But this assertion cannot be proven true or false by statistics. Although some children may benefit if their parents choose to remain in a loveless but nonviolent marriage, others will suffer from the tension they may sense in such a marriage. Moreover, if fathers take the potential loss of continued contact with their children into account in deciding whether to divorce, Blankenhorn may have it backwards. Divorce may not be the cause of a father's failure to establish close ties with his children; rather, lack of close ties with his children may be a contributing factor to divorce.¹⁰⁰ If this is true, and the most devoted, nurturing fathers tend to be the ones who remain in less than perfect marriages, then it is not surprising that their children may fare better than children of relatively indifferent fathers.

In short, it is simply not true that "[t]he . . . evidence is in"¹⁰¹ as to the effects of single-parent families on children. The debate about negative effects of poverty versus negative effects of fatherlessness is by no means resolved. The highly subjective guesses we make about whether it is better or worse for children or parents to remain in a bad marriage are just that—guesses. Feminists have allowed critics of single-parent families to dominate the description of data regarding these families.¹⁰² As a result, the discussion of the results is marked with outrageously broad overstatements which fail to take into account the incredible complexities of the issues involved. It should be one of the highest priorities of feminists in all disciplines to more critically examine studies of single parent families, focusing on both their methodology and their underlying assumptions.

suggests that children will be exposed to more violence outside a nuclear family than within one. See discussion *infra* Part II.E.

⁹⁹ See, e.g., Elizabeth S. Scott, *Rational Decisionmaking about Marriage and Divorce*, 76 VA. L. REV. 9, 25-37 (1990).

¹⁰⁰ For an elaboration of this argument, see Lacey, *supra* note 52, at 1450-53. Of course, my analysis assumes that it is the father desiring the divorce, which is not always the case. However, Blankenhorn appears to implicitly assume that it is always the mother desiring the divorce, which is also not an accurate depiction.

¹⁰¹ Whitehead, *supra* note 4, at 47.

¹⁰² In too many situations, feminists have unquestionably accepted such studies and their conclusions at face value. See Apel, *supra* note 85 (describing the communitarian society's call for two parent families).

C. The Neutered "New Father"

After purporting to document the harmful effects of fatherlessness on children,¹⁰³ Blankenhorn moves on to discuss his primary thesis—that the "cultural script"¹⁰⁴ of contemporary America rejects the traditional breadwinning father model at the expense of civilized society. Because Blankenhorn focuses on the importance of marriage, he completely rejects any version of fatherhood which is not tied to a traditional, patriarchal marriage. He devotes separate chapters of his book to stepfathers and "the Nearby Guy" (that is, the mother's boyfriend),¹⁰⁵ visiting divorced fathers,¹⁰⁶ and "Sperm Fathers,"¹⁰⁷ ultimately proclaiming that all of these men are at best marginal to children's needs for fathers and, at worst, are actually harmful to children.

Even marriage does not necessarily turn a man into Blankenhorn's version of the ideal father. Blankenhorn is convinced that the traditional meaning of fatherhood has been neutered,¹⁰⁸ in effect ruined, by contemporary society in general and by feminists in particu-

¹⁰³ See BLANKENHORN, *supra* note 14, at 9-65. Blankenhorn does not discuss race issues and thus, ironically, he ignores one of the few areas in which his argument may be the most convincing—the need for black males to have positive role models. For a thorough discussion of this issue, see generally Lundy Langston, *Force African-American Fathers To Parent Their Delinquent Sons: A Factor To Be Considered at the Dispositional Stage*, 4 COLUM. J. GENDER & L. 173 (1994).

¹⁰⁴ BLANKENHORN, *supra* note 14, at 65-95. Part II of *Fatherless America* is entitled *The Cultural Script*. Although the author does provide extensive documentation for his claims, he conveniently ignores counter examples. For example, he discusses at length the popular movie *Mrs. DOUBTFIRE* (Twentieth Century Fox 1993) as an example of society's glorification of good divorcees as opposed to good family men. See *id.* at 163-65. In the movie, a father dresses as a woman in order to have access to his children. Blankenhorn describes this as a classic example of the ultimate androgynous nature of the feminist's idealized man. However, an even more popular movie, *THE LION KING* (Walt Disney Pictures 1994), can be viewed as a reaffirmation of the traditional patriarchal model Blankenhorn reveres. When the father lion is killed, the previously prosperous and orderly lion kingdom becomes overrun by savage hyenas and disintegrates into a state of chaos—the classic consequence of stripping men of their traditional roles, according to Blankenhorn and antifeminist commentator George Gilder. See GEORGE GILDER, *MEN AND MARRIAGE* 115-25 (1986) (blaming male/female integrated education for male self-loathing and high male drop-out rates); see also *infra* Part II.E.

¹⁰⁵ BLANKENHORN, *supra* note 14, at 185-98. The rejection of stepfathers is the most inexplicable, because the stepfather is married to the child's mother and is usually a breadwinner for the family.

¹⁰⁶ See *id.* at 148-70.

¹⁰⁷ *Id.* at 171-84.

¹⁰⁸ Blankenhorn asserts, "The ideal of androgynous fatherhood—fatherhood without the masculinity—emerges as the animating principle of the contemporary New Father model." *Id.* at 117. This argument parallels Fineman's argument that the traditional meaning of Mother has become neutered in contemporary society. See discussion *supra* Part I.A.

lar.¹⁰⁹ In a chapter which forms the heart of his book, Blankenhorn discusses the phenomenon of the "New Father,"¹¹⁰ whom he describes as being popular with the media and academics.¹¹¹ The new father is nurturing, emotionally involved with his children, and takes an equal share in child care. He is, in fact, exactly the type of person Joan Williams envisions in her vision of an egalitarian family model.¹¹² Blankenhorn acknowledges that nurturing and connection to children may be desirable, but ultimately he rejects this ideal. In a revealing passage, he writes:

But as a cultural model for men, as the happy ending in today's expert story, the New Father idea is deeply flawed. First, it insults our society's patrimony. As a cultural proposition, much of the New Father model depends upon denigrating or ignoring the historical meaning of fatherhood in America. Indeed, much of the New Father ideal is based explicitly upon belittling our own fathers.¹¹³

Blankenhorn links his defense of traditional fatherhood with a defense of traditional gendered familial roles. The New Father is also bad, he proclaims, because the nurturing parent ideal is androgynous,¹¹⁴ and therefore it "opposes the needs of children by assaulting the requirements of parenthood."¹¹⁵ He asserts, with virtually no authority, that gendered family roles are necessary for children's well-being.¹¹⁶ Traditional fathers are indispensable because they "do certain things that other people, including mothers, do not do as often, as naturally, or as well."¹¹⁷ Ultimately Blankenhorn concludes that the New Father is not really a father at all, just a feminist plot to render fatherhood obsolete and to rob men of their masculinity. He warns:

As a cultural model, the New Father urges men simply to ignore or ridicule the manhood test. The New Father is expected to define his masculinity by either disavowing it or inverting it. As a result, the New Father model explicitly compels men to make a choice: Be

¹⁰⁹ See BLANKENHORN, *supra* note 14, at 96-123. The author is somewhat coy about blaming feminists for the problems he identifies, but opposition to most aspects of contemporary feminism is a clear subtext of the book. For example, every time he quotes feminist authors such as Dorothy Dinnerstein, *id.* at 119, Katha Pollitt, *id.* at 76, or Naomi Wolf, *id.* at 33, he does so to rebut their arguments.

¹¹⁰ *Id.* at 96-123.

¹¹¹ See *id.* at 96-100.

¹¹² See Williams, *Gender Wars*, *supra* note 23, at 1633-34.

¹¹³ BLANKENHORN, *supra* note 14, at 101.

¹¹⁴ See *id.* at 117-23. Blankenhorn also claims this move toward androgyny is the ultimate example of radical, selfish individualism. See *id.* at 122-23.

¹¹⁵ *Id.* at 101.

¹¹⁶ See *id.* at 107-23. According to Blankenhorn, masculine values that only fathers can transmit include "toughness, competition, instrumentalism, and aggression . . ." *Id.* at 122.

¹¹⁷ *Id.* at 122.

a New Father or be a man. The pathway to the former is the rejection of the latter.¹¹⁸

Because the new fatherhood model, in Blankenhorn's analysis, does not allow men to assert their traditional right to dominion over women, it fails as a socializing agent.¹¹⁹ Blankenhorn concludes that only a return to traditional patriarchal roles will prevent men from having to choose between "be[ing] a man" and being a father.¹²⁰

D. The Father as Breadwinner

After rejecting the "androgynous" New Father, Blankenhorn offers his own alternative: the "Good Family Man" whose primary goal in life is breadwinning.¹²¹ He affirms the traditional working father/caretaking mother model as necessary to society, stating:

Surely, one of the more significant social inventions in human history is the set of practices, largely inhering in the idea of fatherhood, whereby men voluntarily give money and other material resources to wives and children. In our public discourse, we typically refrain from describing this practice in gendered terms, but this father-to-other transfer nevertheless remains a key organizing principle of our economy and society.¹²²

Breadwinning, then, is what fatherhood is really about. Blankenhorn interviews a number of men who assert that supporting their families is their primary responsibility as fathers.¹²³ Ideally, of course, the man is the sole breadwinner.¹²⁴ Blankenhorn pays lip service to the idea that some women might object to this model, but rejects it in a stunning passage: "Surely some mothers today want to hold a job, or devote more hours to a career, only to find themselves thwarted by domineering husbands who brandish their 'breadwinner roles' as

¹¹⁸ *Id.* at 224-25.

¹¹⁹ *See infra* Part II.E.

¹²⁰ BLANKENHORN, *supra* note 14, at 225.

¹²¹ *See id.* at 201-21.

¹²² *Id.* at 107. Note Blankenhorn's use of the word "give." This reinforces the idea that the woman contributes nothing to the marriage. Richard Epstein has proposed a similar economic model of marriage: "In economic terms, the potential gains from specialization and trade are too large to be ignored, especially under conditions of extreme scarcity." Richard A. Epstein, *Gender is For Nouns*, 41 DEPAUL L. REV. 981, 990 (1992).

¹²³ *See* BLANKENHORN, *supra* note 14, at 202-21. The secondary goal of the Good Family Man is physical protection of the family, another resort to traditional stereotypes. *See id.* at 213-14.

¹²⁴ Additionally, according to Blankenhorn, men are more suited to the breadwinning role, because unlike women they do not view work demands as conflicting with parenting responsibilities. *See id.* at 107-17. Blankenhorn's argument is an ironic twist on Joan Williams's disapproval of the work/child conflict that many mothers do feel. *See* Williams, *Gender Wars*, *supra* note 23, at 1596. Both authors seem to agree that this conflict is bad, but Williams would be appalled by Blankenhorn's solution: make the man the sole wage earner. My own perspective is that this conflict is inevitable, *see supra* Part I.D, and that anyone who is not affected by it is probably not a genuinely involved parent.

weapons against their wives' desires. However, I have not met many such mothers."¹²⁵ Instead he asserts, with an admitted lack of authority, that there are far more women who want to stay home with their children but are prevented from doing so because of the erosion of the traditional role of the breadwinning father.¹²⁶

E. The Beauty and the Beast: Marriage as the Ultimate Civilizing Agent

In Blankenhorn's world, the breadwinning father is not only good for children, he is indispensable for a civilized society. Blankenhorn believes that when men are deprived of the opportunity to fulfill their traditional patriarchal roles as husbands and fathers, they become at best aimless drifters¹²⁷ and, at worst, violent monsters.¹²⁸ He writes, "Across societies, married fatherhood is the single most reliable, and relied upon, prescription for socializing males."¹²⁹

The theme of marriage as a male socialization agent is remarkable for its negative description of men. George Gilder, one of Blankenhorn's intellectual predecessors, writes:

Unless they have an enduring relationship with a woman—a relationship that affords them sexual confidence—men will accept almost any convenient sexual offer. This drive arises early in their lives, and if it is not appeased by women it is slaked by masturbation and pornography. The existence of a semi-illegal, multibillion-dollar pornography market, almost entirely male-oriented, bespeaks the difference in sexual character between men and women. One can be sure that if women passionately wanted porn, it would be provided. Though sexual liberals have denied it so often as to thoroughly confuse each sex about the feelings of the other, the fact is that women lack the kind of importunate, undifferentiated lust that infects almost all men.¹³⁰

¹²⁵ BLANKENHORN, *supra* note 14, at 115.

¹²⁶ *See id.* at 114-17. My position may seem somewhat schizophrenic, since I have defended women's desires to stay home with their children and criticized Joan Williams's assumption that these desires are prompted solely by guilt. *See supra* Part I.B. But my point is that both liberal feminists, who in effect push women into the workplace, and conservative commentators, who want to keep them out of it, are wrong. Women should be able to choose which model is best for them and their children, unfettered by mandatory roles.

¹²⁷ *See* BLANKENHORN, *supra* note 14, at 124-28 (discussing deadbeat dads and blaming men's failure to pay child support on the erosion of the traditional father role model).

¹²⁸ *See id.* at 26-42.

¹²⁹ *Id.* at 38.

¹³⁰ GILDER, *supra* note 104, at 11. Gilder, unlike Blankenhorn, is not subtle in blaming feminism for all of society's problems. In a recent article, he asserts:

The key problem of the welfare culture is not unemployed women with illegitimate children. It is the women's skewed and traumatic relationships with men and boys. In a reversal of the usual pattern in civilized societies, the women have the income and the ties to government authority and support. The men are economically and socially subordinate. Favored by the

If Catherine MacKinnon had written the preceding passage,¹³¹ it would have been offered by her critics as the ultimate example of her "hatred" of men. But the theme that men are basically wild, lustful beasts, who can only be tamed by a traditional marriage, is apparently accepted without question by conservative ideology.

There may be a certain amount of truth to parts of the Blankenhorn/Gilder thesis. Crime statistics support the proposition that men, on average, are more violent than women.¹³² The theory that men and women have different sexual needs is supported by both conservatives and many feminists. I have argued elsewhere that men and women have different perceptions of sex and love which should be taken into account in stories about rape and sexual harassment.¹³³ And, it is unquestionably true that many people, both men and women, become more responsible adults once they have children. But the rhetoric about responsibility as a civilizing agent has a familiar ring. Consider the following passage:

A pet is totally dependent on others for its feeding and care and provides an ideal opportunity to teach your child about responsibility. . . .

A child who is successful in carrying out her commitments to her pet will benefit in several ways. First she will experience enhanced self-esteem from knowing she is competently caring for a pet who depends on her. . . .

. . . Young children are by nature very self-centered, focusing most closely on "me" and "mine" A pet offers the chance for boys and girls to feel love for something alive and to express their affection by talking to, holding, caressing, and kissing—without feeling rejection.¹³⁴

If you substitute "wife and children" for "pet" and "husband" for "child" in the above passage, you have portrayed the essence of the

feminists dominant at all levels of the government, this balance of power virtually prohibits marriage

Gilder, *supra* note 8, at 24-25. Gilder apparently believes we live in a country in which feminists control everything. In an amazing outburst, he claims that "[t]he entire welfare state—from Donna Shalala to Bob Dole's Senate offices—is relentlessly feminist . . ." *Id.* at 25.

¹³¹ I would venture a guess that if academics were asked to name the author of the above passage, they would identify it as MacKinnon's work.

¹³² In 1993, of the 1.4 million total prison population, 1,270,000 were male and 95,000 female. See TRACY L. SNELL, U.S. DEP'T OF JUST., CORRECTIONAL POPULATIONS IN THE UNITED STATES 1993, at 6 (1995). See also TRACY L. SNELL, U.S. DEP'T OF JUST., WOMEN IN PRISON 1-2 (1994) (cited in Stefanie F. Seldin, *A Strategy for Advocacy on Behalf of Women Offenders*, 5 COLUM. J. GENDER & L. 1, 2 (1995)).

¹³³ See Lacey, *supra* note 21, at 644.

¹³⁴ MARIANNE E. NEIFERT, DR. MOM'S PARENTING GUIDE 165-66 (1991). Neifert also notes that pets teach valuable lessons about reproduction, aging, and death. See *id.* at 167-69.

conservative message regarding the benefits of traditional patriarchal marriage and fatherhood. "Taking care" of his wife and children enhances a man's self-importance and domesticates him in desirable ways. Marriage transforms the wild, lustful, male-child into Blankenhorn's mature "Good Family Man."¹³⁵

Remarkably, but not surprisingly, conservatives fail to offer any reasons why a woman would want to spend her life as a civilizing agent. The benefits to real pets in today's society are obvious; domesticated animals necessarily depend on humans for subsistence and affection. Unfortunately for conservatives, most women today do not see themselves as cocker spaniels. Women are no longer willing to pay the price of total dependency on a man in order to realize the dubious benefits of his skills as a breadwinner. Blankenhorn, like Gilder, ignores this inconvenient fact. His book is startlingly devoid of any discussion of mothers and wives. Women may be critically important to his scheme of things, but they are also invisible.¹³⁶

Not only does he fail to explain why women would want to return to a domesticated pet status, Blankenhorn also blames nonconforming women for violence directed against them.¹³⁷ In the section of his book dealing with domestic violence,¹³⁸ Blankenhorn argues, using dubious statistics, that most domestic violence is committed by men separated or divorced from their women, or never married to them in the first place.¹³⁹ Without marriage as a civilizing force, men become beasts. As Blankenhorn explains, "[F]or many men, suddenly losing their identities as married fathers, especially when the loss is involuntary, shatters their world and triggers violence."¹⁴⁰ To Blankenhorn, violence against women is not the real problem, it is only a symptom of the real problem—the failure of women to recognize and honor patriarchal marriage models: "As we deinstitutionalize marriage and fracture fatherhood in our society, we must not be surprised by the rapid spread of male violence, especially violence against women."¹⁴¹ In other words, if women would only stay in their place, domestic violence would disappear.

¹³⁵ BLANKENHORN, *supra* note 14, at 201-21.

¹³⁶ Blankenhorn does discuss the views of feminists, *see supra* note 109, but he devotes only a few pages to quotes from traditional mothers. *See* BLANKENHORN, *supra* note 14, at 115-16.

¹³⁷ Blankenhorn also blames women for men's failure to pay child support. *See* BLANKENHORN, *supra* note 14, at 124-47. He argues that only men who can fulfill traditional roles feel obligated to pay child support, and that a society which tolerates single-mother child rearing cannot have it "both ways." *Id.* at 133.

¹³⁸ *See id.* at 32-39.

¹³⁹ *See id.* at 34-39.

¹⁴⁰ *Id.* at 37.

¹⁴¹ *Id.* at 39.

In her chapter *The Sexual Family*,¹⁴² Martha Fineman provides a feminist analysis of the cultural forces that make the horizontal heterosexual marriage model, revered by conservatives like Gilder and Blankenhorn, appear to be the only "natural" family form.¹⁴³ That is, this artificial structure is the only one sanctioned by legal and societal norms, with other types of family deemed deviant or pathological. Fineman argues convincingly that far from being inevitable and desirable, the sexual family model is a failure in contemporary society, because it is ill-equipped to deal with inevitable dependencies.¹⁴⁴ Moreover, despite attempts at egalitarian reforms, the traditional family continues to be "the most gendered or role-defined of our institutions, allowing for and justifying pervasive, ingrained, and persistent patterns of gender inequality in the larger society."¹⁴⁵

III

PROPOSED SOLUTIONS TO PERCEIVED PROBLEMS

A. Fineman's Mother/Child Dyad Family Model

Fineman and Blankenhorn devote most of their books to identifying problems in current family structures,¹⁴⁶ and they each conclude with proposed solutions to some of the concerns they identify. Although both authors offer a few practical suggestions, their solutions are largely symbolic.

Fineman's task is more difficult, since her objective is to reconstruct the traditional family structure, while Blankenhorn's goal is to reinforce it. Because her task is so formidable, Fineman begins with a startling proposal: abolition of marriage as a legal category.¹⁴⁷ She outlines several benefits of this proposal, including removing the justi-

¹⁴² FINEMAN, *supra* note 12, at 145-76.

¹⁴³ *See id.* at 145-66.

¹⁴⁴ *See id.* at 164-66.

¹⁴⁵ *Id.* at 164. Unlike Blankenhorn, Fineman does focus on what women want in a family structure. She notes that a nationwide poll of teenage girls indicated that 63% would be happy if they did not marry and 55% would consider becoming single mothers. *See id.* at 149-50 (citing Tamar Lewin, *Poll of Teenagers: Battle of the Sexes on Roles in Family*, N.Y. TIMES, July 11, 1994, at A1).

¹⁴⁶ *See* BLANKENHORN, *supra* note 14, at 9-201; FINEMAN, *supra* note 12, at 67-226. Ironically, both authors are convinced the other side has won. Fineman asserts that demonization of single mothers has become the societal norm. Blankenhorn says the same thing about a cultural script which he believes makes fathers unnecessary. However, both authors would agree that the current trend toward an idealized egalitarian family model neuters Mothers and Fathers.

¹⁴⁷ *See* FINEMAN, *supra* note 12, at 228-30. Under Fineman's proposal, people would still be able to participate in ceremonial marriages. *See id.* at 229.

fication for marital rape,¹⁴⁸ but her primary objective is to eradicate the "privileged status" that the sexual family model enjoys.¹⁴⁹

Fineman would replace the sexual family with the Mother/Child dyad, a model centered on the concept of the family as a means of protection for its dependent members.¹⁵⁰ Fineman envisions that this new model would receive "a redistribution or reallocation of social and economic subsidies now given to the natural family that allow it to function 'independently' within society. Family and welfare law would be reconceived so as to support caretaking as the family intimacy norm."¹⁵¹ Fineman emphasizes that her dependency model encompasses relationships other than mother/child, such as caretaking for the ill or the elderly.¹⁵²

In the context of her discussion of the dependency-based family model, Fineman advocates the use of "Mother" as an image that carries many positive connotations and therefore one which supports the reforms she envisions:

Mother is an embodied concept with biological, anthropological, theological, and social implications that give it strength in the public sphere. . . .

. . . .

. . . Motherhood has unrealized power—the power to challenge the hold of sexuality on our thinking about intimacy; the power to redefine our concept of the family, which may be why men have tried for so long to control its meaning The strength of the image is in its redistributive potential, grounded on empirical evidence ("reality") about the need for and the assumption of caretaking.¹⁵³

Although she emphasizes that men can be "Mothers,"¹⁵⁴ Fineman recognizes and does not shy away from the gender implications of her symbol.¹⁵⁵ Her reconstruction of the symbolic Mother is a commendable attempt to counter the antifeminist aspects of the conservatives'

¹⁴⁸ See *id.* at 230. Other potential benefits, according to Fineman, include ending the concept of marital property and abolishing discriminatory treatment of children based on their parents' marital status. See *id.*

¹⁴⁹ See *id.* at 230. For a discussion of the sexual family concept, see *supra* Part II.E.

¹⁵⁰ See FINEMAN, *supra* note 12, at 230-33.

¹⁵¹ *Id.* at 231-32.

¹⁵² See *id.* at 235.

¹⁵³ *Id.* at 234. For a criticism that Fineman's emphasis on the nurturing aspects of "Mother" denies women's sexuality, see M.M. Slaughter, *Fantasies, Single Mothers and Welfare Reform*, 95 COLUM. L. REV. 2156 (1995).

¹⁵⁴ FINEMAN, *supra* note 12, at 234-35. In fact, Fineman argues that it is necessary for men to become nurturing mothers if they expect to have legal access to their children. See *id.*

¹⁵⁵ Fineman states that she "deliberately (even defiantly)" decided against making her symbol gender neutral. *Id.* at 234.

attacks on single mothers and the well-meaning, but ultimately harmful, gender neutering of Mother by liberal feminism.

Although the first part of Fineman's proposal is theoretically appealing, its major flaw lies in its complete impracticality. It is impossible to imagine a state legislature actually passing a bill to abolish marriage; indeed, most current legislative attempts revolve around strengthening the institution.¹⁵⁶ Despite this, Fineman's discussion of the sexual family is a compelling addition to the scholarly debate about families and motherhood. John Vagelatos compares Fineman to Cassandra, the mythical prophet whose words were destined to be unheard¹⁵⁷ and concludes:

while change may not come in the form which Fineman advocates, its radical nature makes it difficult to be coopted by the dominant ideology, forcing discourse outside of traditional boundaries [T]he very character of her analysis and critical vision allows future feminists and critics to chart their courses with greater knowledge.¹⁵⁸

The second part of Fineman's proposal, the concept of legally sanctioned family structures based on the dependency model, provides exciting possibilities for meaningful reform in the way we treat single mothers. Emphasizing the inevitability of dependency¹⁵⁹ should help the public to understand the importance of the work Mothers do. It may help us to return to the question which should be at the heart of welfare discourse: Why should mothers of pre-school children have to work outside their home?¹⁶⁰ Attempts to answer that question should force the reformers to examine the realities of child-care problems¹⁶¹ and to appreciate the highly undervalued caretaking services that mothers perform. The Mother/Child dyad provides a powerful conceptual basis for concrete legislation designed to enhance the ability of single mothers to care for their children.¹⁶²

¹⁵⁶ See *supra* note 6 and accompanying text. For example, California is in the process of passing regulations which would require social workers to state that adoption of children by unmarried persons is not in the best interest of the child. Carey Goldberg, *Adoption Proposal Causes Uproar*, N.Y. TIMES, Sept. 30, 1996, at A15.

¹⁵⁷ See John Vagelatos, *Heeding Cassandra: The Neutered Mother, The Sexual Family, and Other Twentieth Century Tragedies*, 5 COLUM. J. GENDER & L. 127, 127-28, 140 (1995).

¹⁵⁸ *Id.* at 140.

¹⁵⁹ For a brilliant analysis of Fineman's "radical" discussion of dependency, see Jonathan Simon, *Inevitable Dependencies: A Comment on Martha Fineman, The Neutered Mother, The Sexual Family, and Other Twentieth Century Tragedies*, 5 COLUM. J. GENDER & L. 152 (1995).

¹⁶⁰ This is also an important question to ask when calculating appropriate child support payments.

¹⁶¹ See *supra* notes 60-71 and accompanying text.

¹⁶² Martha Minow offers a variety of suggestions for welfare reform that are compatible with a dependency model, including paying mothers of very young children for their care-

B. Blankenhorn's Mandatory Marriage Society

Blankenhorn's solutions to the problems he identifies also rely heavily on symbolism. He devotes a great deal of his book to describing a "cultural script,"¹⁶³ which he claims is antifather, and therefore his solution centers around creating opposing cultural models. His new script would star "the Good Family Man," taking all fake fathers, such as stepfathers or "New Fathers," out of the picture.¹⁶⁴ The country's legal system would be centered around two basic propositions: marriage is "irreplaceable" and "being a real man means being a good father."¹⁶⁵ All men will be asked to take a pledge that affirms their commitment to breadwinning and fatherhood.¹⁶⁶ The central question to be asked about all proposed legislation is whether it would strengthen or weaken the institution of marriage.¹⁶⁷ In short, Blankenhorn envisions a society in which the vast power of the government is devoted to making marriage mandatory for anyone who wishes to have children.¹⁶⁸

In many ways, Blankenhorn is the mirror image of Fineman. Both authors emphasize the symbolic importance of their subjects—Fineman's Mother and Blankenhorn's Good Family Man. Both attribute characteristics to their symbolic parent which arguably reinforce traditional sexual stereotypes. Fineman's Mother is nurturing, connected, and her life is centered around her children. Blankenhorn's Good Family Man is the Head of the Household, the Breadwinner, tough but fair—the perfect role model for the importance of the work ethic.

Liberal feminists could argue that Blankenhorn's work illustrates the inherent dangers in Fineman's thesis. Don't Fineman's Mother and Blankenhorn's Good Family Man belong together? This argument misses the central theme of Fineman's reforms—freedom for women from patriarchal restraints. To recognize that women are generally the caretakers of children and that caretaking is undervalued is not the same thing as saying women are *only* good at caretaking.¹⁶⁹

taking. See Martha Minow, *The Welfare of Single Mothers and Their Children*, 26 CONN. L. REV. 817, 840-42 (1994).

¹⁶³ BLANKENHORN, *supra* note 14, at 65-96.

¹⁶⁴ See *id.* at 223.

¹⁶⁵ *Id.*

¹⁶⁶ See *id.* at 226.

¹⁶⁷ See *id.* at 231-32. In this context, Blankenhorn apparently opposes any aid to children born out of wedlock.

¹⁶⁸ For example, although most of the book's proposals are broad and symbolic, one is chillingly concrete and specific—a ban on artificial insemination for single women because "[i]n a good society, people do not traffic commercially in the production of radically fatherless children." *Id.* at 233.

¹⁶⁹ Fineman contends that "as a society, we do not value caretaking or caretakers and this is true outside as well as inside the family." FINEMAN, *supra* note 12, at 9.

Fineman argues that the unrealized power of Mother as a symbol allows women to construct lives without Blankenhorn's Good Family Men. Fineman's vision is not conservative, it is radical and liberating. Fineman is correct when she states that "women may transmit and reproduce the culture, but men produce it—define the terms, control the structures."¹⁷⁰ Fineman offers a vision of motherhood that breaks away from this traditional control, a vision of unsubjected motherhood which allows women to choose to experience the joys and rewards of motherhood without the patriarchal dominance which has always accompanied the role.¹⁷¹ This is a vision all feminists should support.

CONCLUSION

"Find yourself a man. Find yourself a man."¹⁷²

In the movie *Funny Girl*, comedian Fanny Brice is beset with well-meaning relatives telling her to "find yourself a man." This comic advice becomes a threatening command in the context of welfare reform. The basic goal of most welfare legislation is to force women to marry and to assume traditionally dependent roles.¹⁷³ Although the welfare rhetoric discusses the harm of "broken" families to children, its underlying ideology is far more concerned with the dangers single women pose to patriarchy.

Conservatives are more threatened by single motherhood than by any other contemporary change in the status of women, because single motherhood represents a threat to the most effective means through which men have controlled women.¹⁷⁴ Childbearing and caretaking have traditionally resulted in women being economically

¹⁷⁰ *Id.* at 233.

¹⁷¹ See *id.* at 233. For a fascinating discussion of Fineman's concept of the "unrealized" power of Mother, see Dorothy E. Roberts, *The Unrealized Power of Mother*, 5 COLUM. J. GENDER & L. 141 (1995).

¹⁷² *FUNNY GIRL* (Panavision 1968).

¹⁷³ See *supra* note 5.

¹⁷⁴ I believe that conservatives are also upset by single mothers because these women hinder their ability to stereotype independent women as "man-hating dykes." Because they are Mothers, single mothers partially fit the conservative mold of the way women should be—self sacrificing and devoted to their children. But the absence of a man in their lives turns the stereotype on its head in a way which is profoundly upsetting to conservatives. A classic example of the hostility some men feel toward working single mothers is a column by Lewis Grizzard discussing the Murphy Brown phenomena. Grizzard snarls:

I suppose it really would be an inconvenience to some of today's women to have a husband along with the baby. Murphy Brown is a very busy person with her career. She can put her baby in day care, or hire a full-time nanny on her salary, but the father of the child would just get in the way and might even ask her to do something wifely occasionally, like cook a meal, the Lord forbid.

Lewis Grizzard, *What Role Does Ms. Brown Play?*, ATLANTA J. & CONST., May 17, 1992, at D1.

and emotionally dependent on their husbands.¹⁷⁵ Because marriage was required for all "respectable" women who wanted children, many women were forced to choose between entering into dependent, abusive relationships¹⁷⁶ or giving up having children.¹⁷⁷ Increasing societal acceptance of unwed mothers has begun to free women from that choice. It is hardly surprising that defenders of patriarchy feel threatened—the threat to their control is real.

All feminists, whether or not they are mothers themselves, should be concerned about the attack on single women, especially in the context of welfare reform. Not every woman wants to be a mother, but many do. Those who choose motherhood without husbands need and deserve our support. Fineman's and Blankenhorn's books, as different as they are, help us understand the real issues behind the rhetoric about the importance of fathers. Both should be required reading for anyone interested in insuring meaningful freedom of choice for all women.

¹⁷⁵ See ABRAMOVITZ, *supra* note 2, at 32-36; M.L. Slaughter, *The Legal Construction of "Mother"*, in *MOTHERS IN LAW*, *supra* note 2, at 73, 83 (discussing the cycle of dependency).

¹⁷⁶ I am not suggesting that all marriages are abusive relationships, just that many are. See discussion *supra* Part II.B. No one should be forced to stay in that type of marriage.

¹⁷⁷ For a thoroughly documented analysis of the treatment of unwed mothers from 1945-1965, see generally RICKI SOLINGER, *WAKE UP LITTLE SUSIE* (1992). Describing these women, Solinger concludes:

Regardless of race, they were defined and treated as deviants threatening to the social order. Single, pregnant girls and women of whatever race shared the debased status of illegitimate mother: a mother with no rights, or a female who had, according to the dominant culture, no right to be a mother.

Id. at 3. Solinger implies that attitudes towards single mothers have changed since the historical period she describes, and to some extent that is true. Premarital sex is more accepted and prevalent today. But the main thrust of the conservative writing I have discussed in this essay centers around returning the stigma to unwed motherhood. One author jubilantly claims that "the notion of shame is beginning to make a comeback in this country" and quotes with approval a report describing "single motherhood as a selfish act." Jonathan Alter, *The Name of the Game is Shame*, *NEWSWEEK*, Dec. 12, 1994, at 41.