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CARE, WORK, AND THE ROAD TO EQUALITY: A COMMENTARY ON FINEMAN AND WILLIAMS

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In recent years, an important literature has emerged involving the relation between work and family, and how that relation or intersection affects women and their quest for gender equality. Joan Williams and Martha Fineman have significantly helped shape that literature, both in their prior work and in their contributions to this Symposium. It is indeed a daunting task to respond to the two contributions by Fineman and Williams,¹ particularly since I agree with much of what they have written. For instance, I strongly support any effort to increase public support for childcare, though not necessarily in the form of subsidies to enable women to stay home with their children beyond a limited period following the birth or adoption of a child, and I likewise agree that the workplace should be restructured to better incorporate the idea that workers have children and other dependents, and will need to spend time caring for those children and dependents. I also agree that women continue to have disproportionate responsibility for work related to childrearing, housekeeping, and other nonmarket work, and that responsibility substantially impacts women's paid work in various and complicated ways.

However, given the space limitations, and my belief that this lively debate can best be furthered through critical engagement, I am going to largely confine my comments to areas of disagreement and further limit myself to the area I know best, namely the workplace issues that continue to limit women's efforts to achieve greater gender equality. My primary disagreement is strategic in nature. Both Fineman and Williams stress—though with some equivocation—facilitating women's work in the home with children and other

* Professor of Law, George Washington University Law School. I am extremely grateful for the comments I have received, and the conversations I have had with Naomi Cahn and Joan Williams.

1. See Joan Williams, *From Difference to Dominance to Domesticity: Care As Work, Gender As Tradition*, 76 CHI.-KENT L. REV. 1441 (2001); see also Martha Albertson Fineman, *Contract and Care*, 76 CHI.-KENT L. REV. 1403 (2001).

dependents as a way of furthering women's interests, whereas I believe that it is more important to challenge existing and pervasive barriers to workplace equality so that women can make greater economic inroads on a level that will provide them with greater real choices than currently exist.² Emphasizing the importance of care work, and the need for women to have different relations to the workplace than men, as Williams and Fineman do in varying degrees and with different emphases,³ is likely to reinforce existing gender stereotypes and seems unlikely to bring about greater equality for women. As I have argued previously, an important component to obtaining greater gender equality lies in changing the labor force patterns of men by getting them to shoulder more of the burden of home work rather than by either trying to get women to act more like men or by seeking to enhance the value we place on care work.⁴

In addition to a basic strategic disagreement, I also differ from Williams and Fineman with respect to the current nature of the workplace. Joan Williams, and to a lesser extent Martha Fineman, suggest that many women drop out of the workforce for significant periods of time in order to have and to care for children, and Williams in particular wants to find ways to reduce the penalty women suffer when they leave the workforce for family related reasons. My reading of the data suggests a more complex picture of women's labor-force attachment, one for which it is difficult to make broad generalizations, other than that women continue to suffer clear disadvantages in the workplace, though it is less clear that those disadvantages stem entirely, or even primarily, from the fact that most women exit the labor force for significant periods of times. To highlight these differences, it will be helpful to briefly sketch what I consider to be the current state of the workplace.

As has been widely reported, most women now work, and most who do, work full-time. In 1998, 60% of women sixteen years or older were working, and approximately 75% of those between the

2. For a similar argument, although one that emphasizes the spiritual importance of work, see Vicki Schultz, *Life's Work*, 100 COLUM. L. REV. 1881 (2000); see also Anne L. Alstott, *Tax Policy and Feminism: Competing Goals and Institutional Choices*, 96 COLUM. L. REV. 2001 (1996).

3. Joan Williams's argument is more difficult to characterize because her focus is largely on the practical claim that women do have a different relationship to market work than men rather on the normative claim that women should have a different relationship. Professor Williams also supports equal parenting and stakes much of her claim on the fact that equal parenting strategies have not yet become the norm.

4. See Michael Selmi, *Family Leave and the Gender Wage Gap*, 78 N.C. L. REV. 707, 708 (2000).

ages of twenty-five to forty-four were employed.⁵ Recent data from the 1998 Current Population Survey indicate that nearly 70% of employed women between the ages of twenty-five and fifty-four work full-time.⁶ When the focus is on all women, as opposed to those who are employed, 50% of women in the twenty-five to fifty-four age bracket work full-time.

Looking at women with children a somewhat different picture emerges, although the difference is not as dramatic as often imagined. In 1998, 68% of married women with children under the age of eighteen were employed, and in fewer than a third of such families the man was the sole breadwinner.⁷ The labor force participation rate was actually higher in households headed by women where 71.8% of the women worked.⁸ The numbers were slightly lower for women whose children were under age six. Sixty-one percent of married women with children under six were employed, and the husband was the sole breadwinner in 36% of such families.⁹ Importantly, most of the women working in these families were working full-time: more than two-thirds of employed women with children under age six were working full-time, which was also true for women whose children were under three years of age.¹⁰

Women's greater presence in the workforce has occurred at a time when the gender pay gap has been diminishing, although it remains substantial. As a group, women working full-time earn about 76% of what men earn; however, as was true with labor force participation rates, the gap varies considerably by age, race, and occupation.¹¹ For example, women between the ages of twenty to

5. See Howard N. Fullerton, Jr., *Labor Force Participation: 75 Years of Change, 1950-98 and 1998-2025*, 122 MONTHLY LAB. REV. 3, 4 tbl.1 (1999). While the female participation rate has increased steadily since 1950, it still lags behind men's. Nearly 75% of men sixteen or over were in the labor force, with somewhat more than 90% of men between the ages of twenty-five and forty-four. See *id.*

6. See Philip N. Cohen & Suzanne M. Bianchi, *Marriage, Children, and Women's Employment: What Do We Know?*, 122 MONTHLY LAB. REV. 22, 24 (1999). The numbers are slightly lower when the age group is expanded to include those who are between the ages of sixteen and sixty-four, where 61.4% of that group worked full-time. *Id.* The figure quoted in the text is for women who worked full-time during the previous year. The figure for women who worked full-time the week prior to the survey is somewhat higher, 72.2%, compared to 67.1% for those who worked full-time for the whole year.

7. These figures are drawn from BUREAU OF LAB. STATISTICS, EMPLOYMENT CHARACTERISTICS OF FAMILIES IN 1999, tbl.4, available at <http://stats.bls.gov/newsrel.htm> (June 15, 2000).

8. *Id.* at tbl.4.

9. *Id.*

10. *Id.* at tbls.5 & 6.

11. See Mary Bowler, *Women's Earnings: An Overview*, 122 MONTHLY LAB. REV. 13, 13

twenty-four earn nearly 90% what their male counterparts earn,¹² and as reflected in the table below there are incremental decreases for all age groups thereafter.

TABLE I
WOMEN'S EARNINGS AS PERCENT OF MEN'S EARNINGS

Age	Percent
20 to 24	89.4
25 to 34	83.0
35 to 44	73.5
45 to 54	70.5
55 to 64	68.2

Given the discrimination that minority males experience in the workplace, African American and Latino women are actually in closer wage parity with their male counterparts despite earning less than white women.¹³

These figures, divided by age cohorts, reflect the common observation that many women begin their careers in rough wage parity with men, depending on their particular field or occupation, with disparities increasing over time. There are, however, exceptions to this interpretation; most importantly, women who are able to stay in the labor force continuously for ten to twelve years will generally find themselves in far greater wage parity than women who have a more discontinuous labor force attachment.¹⁴ This may suggest that the wage penalty is largely attributable to the fact that many women

(1999). These figures are from 1998 and are generally consistent with studies of trends in the late 1990s. See, e.g., Selmi, *supra* note 4, at 714-16 (citing studies); Francine D. Blau & Lawrence M. Kahn, *Gender Differences in Pay*, 14 J. ECON. PERSP. 75 (2000).

12. Bowler, *supra* note 11, at tbl.2.

13. African American women earn 85.4% what African American men earn, while the figure for Latinas is 86.5%. See *id.*

14. See Selmi, *supra* note 4, at 734-35; see also Audrey Light & Manuelita Ureta, *Early-Career Work Experience and Gender Wage Differentials*, 13 J. LAB. ECON. 121, 142 (1995) ("The general pattern revealed . . . is that the gender wage gap increases with experience over the first 10 years or so of the career and then narrows appreciably."). An interesting anomaly is that younger women tend to report a higher level of workplace discrimination than older women even though the salary figures tend to show the opposite. See Heather Antecol & Peter Kuhn, *Gender As an Impediment to Labor Market Success: Why Do Young Women Report Greater Harm?*, 18 J. LAB. ECON. 702, 703 (2000) (citing studies).

tend to exit the labor force for a period to have and to care for children, and of equal significance, that employers expect women to take significant time off for their children. Women who remain in the workforce can overcome these assumptions, but they often do so by delaying childbirth or foregoing it altogether.

The picture, however, is even more complicated from the existing data because it does not support the view that women are dropping out of the workforce for significant periods of time to care for their children or other dependents.¹⁵ It appears that most women return to work within six months after having a child, and that women are not transitioning to or from part-time jobs when they have children, but are more commonly returning to the kind of job, and often the same job, they had prior to having children.¹⁶ This is a critical piece of the workplace puzzle because it helps refute the commonly told human capital story. Until recently, the prevailing explanation for the gender wage gap, particularly within economics, was that women's wages reflected a lower investment in human capital due to the time they would likely spend out of the workforce.¹⁷ More than a decade of empirical work has cast doubt on that explanation, at least in its strong form, and there now seems to be a growing consensus that the human capital story provides a limited understanding of the persistence of gender disparities in the workplace.¹⁸ For example, women are not choosing jobs that enable

15. Professor Fineman rightly emphasizes that dependents include more than just children, and with the aging of the population, care for the elderly is certain to receive greater attention in the coming years. I am concentrating on children because that is the area of research I know best, and I am not aware of data on the effect caring for dependents who are not children has on women. It also seems to me that elder care raises distinctly different issues from childcare given that many of the elderly are capable of taking care of themselves—either financially or physically and mentally—and elder care often implicates concerns having to do with the unique category of in-laws.

16. For example, based on data from the mid-1980s, one author found that “close to 1 in 5 women interrupted paid work for 1 month or less after giving birth, 53% had begun to work by month 6, and 61% by the beginning of month 12.” Jutta M. Joesch, *Children and the Timing of Women's Paid Work After Childbirth: A Further Specification of the Relationship*, 56 J. MARRIAGE & FAM. 429, 437 (1994); see also Sandra L. Hofferth, *Effects of Public and Private Policies on Working After Childbirth*, 23 WORK & OCCUPATIONS 378, 388 (1996) (finding that 83% of those mothers who worked during pregnancy returned to work within one year); Jane Waldfogel, *Working Mothers Then & Now: A Cross-Cohort Analysis of the Effects of Maternity Leave on Women's Pay*, in GENDER & FAMILY ISSUES IN THE WORKPLACE 93, 95 (Francine D. Blau & Ronald G. Ehrenberg eds., 1997) (noting that 75% of young women returned to work in the early 1990s following childbirth).

17. See, e.g., GARY S. BECKER, HUMAN CAPITAL: A THEORETICAL AND EMPIRICAL ANALYSIS, WITH SPECIAL REFERENCE TO EDUCATION 15-44 (2d ed. 1975).

18. For a discussion of the existing literature, see Schultz, *supra* note 2, at 1892-98; Selmi, *supra* note 4, at 718-35.

them to balance their work and family demands, nor are they choosing jobs for which training or experience is less valuable.¹⁹

There is no question that women suffer labor market penalties when they leave the workforce to care for their children, and Joan Williams has focused largely on trying to eliminate or reduce those penalties by restructuring work so that women would have more options on the ways in which they might balance their home and labor market efforts. Martha Fineman similarly seeks public subsidies to support dependent care, and both authors want to create policies that would enable women to spend more time with their children without facing significant workplace penalties. While this is certainly an admirable goal, I am less certain that their prescriptions would accomplish the goal; indeed, finding ways to enable women to spend more time caring for dependents would have the likely effect of reinforcing gender stereotypes, in particular reinforcing the idea that care work is women's work.²⁰ In many ways, the proposals advocated by both Fineman and Williams resemble the policies that are in place in much of Europe, where women, and sometimes men, have access to lengthy parental leaves and part-time jobs. Yet, there is very little evidence to suggest that women are better off overall as a result of these policies, particularly in the economic sphere.

Although Sweden, the iconic example of generous social welfare policies, has a lower wage gap than exists in the United States, as Professor Williams notes women have not obtained substantial success in reaching the upper echelon of employment ranks, and much of Sweden's labor market remains deeply segregated, as it does in the United States.²¹ In the Netherlands, where there is an established part-time segment, women have not found part-time work

19. See, e.g., DONALD TOMASKOVIC-DEVEY, *GENDER & RACIAL INEQUALITY AT WORK* 51 (1993) (concluding, based on study in North Carolina, that "[w]omen are not selecting typically female jobs to trade higher starting wages for lower wage depreciation when they leave the labor force to have and care for children").

20. See Barbara R. Bergman, *Subsidizing Childcare by Mothers at Home*, 6 *FEMINIST ECON.* 77, 82 (2000) ("Anything that increases the social pressure for having children cared for full-time by their own mothers is a step back toward rigid gender roles, with each gender limited to sex appropriate activities.").

21. See Williams, *supra* note 1, at 1456-57. For example, recent data indicate that the wage gap in Sweden for the period 1994-98 was .835 whereas the same data showed a gap of .763 for the United States. See Blau & Kahn, *supra* note 11, at 92 tbl.3. The United States, however, generally fares moderately better on scales of occupational segregation and advancement. See *id.* at 94. U.S. mothers with children under age two are also twice as likely to work full-time as their Swedish counterparts. See Siv Gustafsson & Frank P. Stafford, *Three Regimes of Childcare: The United States, the Netherlands, and Sweden*, in *SOCIAL PROTECTION VERSUS ECONOMIC FLEXIBILITY: IS THERE A TRADE-OFF?* 333, 348 (Rebecca M. Blank ed., 1995).

to be any more of a ladder to economic success than has been the experience in the United States; in both countries, part-time jobs remain largely marginalized, offering less power, fewer benefits, and lower wages than full-time work.²² France, which offers some of the most generous support for the care of children in the form of payments for mothers when their children are very young, can hardly be viewed as a model of gender equity.²³ Given the differences in the American labor market, it is conceivable that if broader policies were implemented in the United States they would have a more equity-enhancing effect than they have had in European countries. Additionally, restructuring jobs to dismantle the ideal worker model, as Professor Williams advocates, may decrease the current division between part-time and full-time jobs. Nevertheless, much work remains to be done to demonstrate the positive labor market effects that we might realistically expect from adopting broader social welfare policies.

Even if women are exiting the workforce when they have children, we are still missing a critical piece of information that would help us better understand the underlying reasons. We do not know whether women would be more inclined to continue employment if their jobs were more like men's—if, for example, they had more responsibilities, higher pay, and less discrimination than they currently do. One of the most salient features of the labor market involves the extent of occupational gender segregation, and the correlative fact that female-dominated jobs tend to offer significantly lower wages and room for advancement than male-dominated jobs.²⁴ If women had access to better jobs, it may be that their labor force patterns would more closely replicate those of men; conversely, if men's jobs were more like women's, we might see more men devoting more time to family-related work.

22. As of 1987, only 26% of Dutch women with preschool-age children were in the labor force. See Siv Gustafsson, *Public Policies and Women's Labor Force Participation: A Comparison of Sweden, Germany and the Netherlands*, in INVESTMENT IN WOMEN'S HUMAN CAPITAL 91, 98 (T. Paul Schultz ed., 1995).

23. See ANN CRITTENDEN, *THE PRICE OF MOTHERHOOD: WHY THE MOST IMPORTANT JOB IN THE WORLD IS STILL THE LEAST VALUED* 90 (2001) (defining France as having the lowest what she defines as "mommy tax").

24. See Blau & Kahn, *supra* note 11, at 79-84; Schultz, *supra* note 2, at 1894-96. One study concluded that "if one moved from a job that was 0% female to a job that was 100% female . . . one's wage would decline by 7% to 19%." Paula England et al., *The Effect of the Sex Composition of Jobs on Starting Wages in an Organization: Findings from the NLSY*, 33 DEMOGRAPHY 511, 516 (1996).

I am also less enthusiastic than either Fineman or Williams about the idea that employers should be expected or required to accommodate an employee's desire to care for her children. There are two principle dimensions to my disagreement. First, to the extent that the leaves are costly, there is no sound basis for requiring employers to ignore them, although requiring employers to ignore relevant productivity information is not unprecedented. Currently, employers must make reasonable accommodations for their disabled and religious employees, and the age discrimination laws can also preclude productivity-based decisions that might be linked to age, as there is evidence that employees' productivity tends to decrease with age while wages generally do not.²⁵ Importantly, all three of these statutes recognize various limits for the costs an employer might be required to incur as part of an accommodation obligation.²⁶

Determining the appropriate accommodation for childrearing would also be far more difficult given that the needs for childrearing are ongoing and are likely to evolve over time. In contrast, most disability accommodations involve discrete changes, though employers can be required under certain circumstances to restructure jobs to accommodate the needs of their disabled employees. However, within a disabilities accommodations framework, there is no clear parallel for creating better part-time jobs or for allowing women to stay home to care for their children for an extended period of time without suffering a wage penalty.

But there is a substantial question as to how costly shorter leaves actually are. While I do not believe there is sufficient data to suggest that family-flexible policies are generally efficient workplace practices, employers seem to exact wage penalties that far exceed the costs of the leaves women typically take.²⁷ It likewise appears that even those women who do not exit the workforce for any significant

25. See 42 U.S.C. § 12112(b)(5)(A) (West 1995) (defining reasonable accommodation obligation under the ADA); *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63 (1977) (defining nature of religious accommodation under Title VII). On the relation between age, productivity, and the ADEA, see Stewart J. Schwab, *Life-Cycle Justice: Accommodating Just Cause and Employment at Will*, 92 MICH. L. REV. 8 (1993).

26. Under the ADA, an employer's obligation is limited to the extent that it imposes an undue hardship on an employer, which is measured in part by the costs of the accommodation. See 42 U.S.C. § 12111(10)(A)-(B) (West 1995). An employer is only obligated to take actions that require de minimus costs to accommodate the requests of religious employees. See *Hardison*, 432 U.S. at 63. Finally, an employer may rely on factors other than age, which may in some circumstances include costs, as a defense to an age discrimination claim. See 29 U.S.C. § 623(f)(1) (West 1999).

27. See Selmi, *supra* note 4, at 750.

period of time are being penalized under the assumption that at some point they will. Both of these effects strike me as a matter of discrimination rather than accommodation. I believe we too often downplay the role gender discrimination that continues to play in the labor market, not just with respect to the stereotypical assumptions that operate within the workplace but also with respect to the effects sexual harassment, discriminatory policies, and treatment play in perpetuating gender segregation and inequity. To this end, I think there is still much to be gained by focusing more on the ways in which women are discriminatorily disadvantaged in the workplace rather than on ways in which we might accommodate their dependency responsibilities.²⁸

The second aspect of my reluctance to require employers to accommodate women who want to take significant time away from the workplace, or to subsidize those women who want to care for dependents, returns to Professor Fineman's analytic device of the social contract, but I want to reframe the question by borrowing from the title of a recent book to ask "what we owe to each other."²⁹ What is it that employees, and in this case the emphasis is on female employees, should be entitled to when it comes to balancing the demands of labor market work and family life? Should they be entitled to take significant time off without suffering a penalty in the labor market, or should they be entitled to good part-time jobs that do not offer reduced responsibility or opportunities for advancement? Should a desire to stay home with dependents be subsidized regardless of circumstances?

These are difficult questions that are at the core of the articles by Professors Fineman and Williams, and raising these questions is a significant achievement in and of itself. My own answer to each of these questions is a qualified no, but I must confess, I do not know whether my answer would be different if I believed the possibility for quality part-time jobs, or for the absence of a labor market penalty, were real. Within our existing constraints, it seems rather clear that women are likely to gain more power through their labor market work, than by trying to enhance the value society places on what both Professors Fineman and Williams label as care work—work that is

28. For an excellent discussion of the cumulative effects various acts can have on women's advancement in the workplace, see VIRGINIA VALIAN, *WHY SO SLOW? THE ADVANCEMENT OF WOMEN* (1998).

29. See T.M. SCANLON, *WHAT WE OWE TO EACH OTHER* (1998).

done outside of the paid labor market.³⁰ I also believe that it is necessary to make tradeoffs, choices, and compromises when it comes to mediating between work and family. This does not mean that women should not have more choices, or that it would not be desirable if there were more kinds of different jobs available. Indeed, one of the mysteries of the labor market is why it has not produced a greater variety of jobs, since there seems to be a desire for such jobs among employees, and it is difficult to identify something inherently magical about a forty-hour week that occurs in an office five days a week. Despite all the hype regarding our contingent workforce, temporary, part-time, or flexible jobs remain a relatively small portion of the labor market.³¹

When we ask what we owe to each other, the answer should be that women are entitled to the same choices that men have, with some necessary accommodation for childbearing. From this perspective, the problem is not with the need to make trade-offs but rather with the fact that women are the ones who make the trade-offs. Given the persistence of gendered parenting patterns, women have, as a practical matter, a different array of choices than men. As I and others have argued previously, until we can get more men to replicate the labor force patterns of women so that more men are engaged in care work, and experiencing the costs, of childrearing, we are not likely to see much greater improvement in gender equity as measured through the wage gap, the glass ceiling, or labor force attachment figures.³²

30. While the term "care work" has gained ascendancy, I believe it is inaccurate to distinguish between care and work, or to suggest that we devalue, or decommodify, work done in the home or for children by describing it as "care." It seems that whether such work is classified as care or work often turns on whether a commercial transaction is involved. I suspect most of those who clean homes, or care for children for a wage, refer to their tasks as work rather than care, and to the extent care is an accurate term, it refers to noncommercial work involving dependents or the home.

31. Defining the contingent workforce remains a deeply contested exercise and the figures range from a low of 5% of the workforce to a high of about one third of the workforce. See Gillian Lester, *Careers and Contingency*, 51 STAN. L. REV. 73, 79-86 (1998) (discussing the difficulty of definition). The higher range estimates include all temporary, part-time, self-employed, and independent contractors, while the lower range figures tend to emphasize temporary jobs. See *id.* Government statistics focusing on temporary jobs suggest that only 4.4% of the workforce are holding such jobs, and that the numbers have actually declined in recent years. See Steven Hipple, *Contingent Work: Results from the Second Survey*, 121 MONTHLY LAB. REV. 22 (1998); see also Katherine V.W. Stone, *The New Psychological Contract: Implications of the Changing Workplace for Labor and Employment Law*, 48 UCLA L. REV. 519, 541-46 (2001) (discussing data on what she defines as the "precarious" workforce).

32. See NANCY FRASER, JUSTICE INTERRUPTUS: CRITICAL REFLECTIONS ON THE "POSTSOCIALIST" CONDITION 61 (1997) ("The key to achieving gender equity in a postindustrial welfare state... is to make women's current life-patterns the norm for

Martha Fineman takes a different approach to defining the basis for a new social contract by emphasizing a “collective or public responsibility for dependency,” with the specific intent to compel greater social responsibility for dependency. There is much to be said for this focus, and indeed, as a society we already acknowledge the way in which children or other dependents represent public goods through the provision of public education, head start programs, tax credits for childcare, social security, and other state-supported programs. We could and should do more, but Martha Fineman wants to go beyond these programs to acknowledge the social debt owed to those who do care work that would require compensation and accommodation programs for those engaged in such work. It is difficult to know, however, just how far this public obligation might extend—would we subsidize anyone who wanted to engage in care work, and would we likewise subsidize families that sought to home school their children? Stressing the public nature of the obligation might also require the provision of free childcare or boarding schools for those who preferred not to raise their children or to engage in part-time parenting. These proposals seem to fall outside what Professor Fineman contemplates, but the examples illustrate how we can overemphasize the public responsibility to the exclusion of individual responsibility rather than trying to identify a proper mediating position that more concretely defines the nature and limits of the public obligation.

One difficulty with defining the substance of a social contract is that the world seems more divided today, more heterogeneous than before, which makes it difficult to arrive at comprehensive strategies for achieving greater gender equity. Both Fineman and Williams emphasize a series of binary oppositions: difference and dominance, tomboys and femmes, independents and dependents, work and care, responsibility and irresponsibility, public and private. Yet, these oppositions no longer accurately capture the picture of gender that we confront today—a fact that both authors recognize and seek to incorporate into their proposals, though they often return to the binary oppositions for much of their argument. Rather than focusing on binary divisions such as work and care, it seems more profitable to try to chart the elusive third way—not in a Clintonian sense where the

everyone.”); Selmi, *supra* note 4, at 755 (“All of the issues discussed so far indicate that the best means of eradicating persistent labor market inequalities would be to change the work patterns of men.”).

third way is a rhetorical move without substance, but a third way that begins by asking the question stated earlier, namely what do we owe to each other? Finding a consensual answer to this question will require dropping assumptions and moving out of the old difference/dominance debate into a struggle toward a better understanding of the derivation and pervasiveness of sex roles, women's interests with respect to work, and what kind of choices or compromises we believe are reasonable and necessary, realizing that we cannot have it all but also that there is no reason women should not have at least as much as what men have. Moreover, before we shift men's responsibilities to employers or the state, we should first exhaust all possibilities for reshaping men's behavior in and out of the workplace.

Despite the enormous volume of work that has been done on gender, labor, and the family, there is still much we do not yet know. For example, we are still lacking a comprehensive understanding of the reasons women's labor force patterns continue to differ from men's particularly after they have children—where women's patterns do change somewhat while men's do not—whether, for example, the changes are motivated by economics, interests or the nature of women's jobs. Nor do we fully understand how the presence of a second or third child alters labor force patterns, or whether we might be able to create part-time or flexible jobs that would not be marginalized. Similarly, we are still lacking a consensus on whether a preference that many individuals have for maternal (or parental) care is justified by its benefits, and the list goes on. As I noted at the outset, the literature on work and family issues is exciting and innovative, as well represented in the two provocative articles by Professors Fineman and Williams. While I disagree with some of the emphases and approaches of both, their work has made me think harder about my own, and has likewise contributed to a better understanding of the dilemmas that continue to define the lives of so many women.