Joan Williams, Coalitions, and Getting Beyond the Wages of Whiteness and the Wages of Maleness

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I. INTRODUCTION

Family is a complicated place. It is a place of tenderness and nurturing. It is a place of terror and violence. It is a key social and economic unit in our society, stepping in voluntarily and through necessity to provide what the market and the state are unable or unwilling to provide. We depend on the family to produce the next generation of those who will do our market and care work. We depend on the family to care for the older generation when they are no longer able to care for themselves and when the state fails to provide them with adequate resources. We ask a lot of family.

Professor Williams believes that we ask too much of family. She has engaged in a decades-long intellectual and political project that examines the ways in which the market and the state fail the family, specifically at the point where work imperatives meet and clash with family imperatives.[1] The weight of this failure is borne disproportionately by

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1. Though many of her examples and arguments are made in various law review articles, I will focus in this Essay primarily on her two books: *Reshaping the Work-Family Debate* that is the subject of this Colloquy, and *Unbending Gender: Why Family and Work Conflict and What to Do About It*, published ten years earlier. For a few representative pieces that reflect her sustained scholarly engagement, see Joan C. Williams, *Deconstructing Gender*, 87 MICH. L. REV. 797 (1989); Joan Williams, *Gender Wars: Selfless Women in the Republic of Choice*, 66 N.Y.U. L. REV. 1559 (1991); Joan C. Williams, *Restructuring Work and Family Entitlements Around Family Values*, 19 HARV. J.L. & PUB. POL'Y 753 (1996); Joan Williams, *Market Work and Family Work in the 21st Century*, 44 VILL. L. REV. 305 (1999); Joan C. Williams & Nancy Segal, *Beyond the Maternal Wall: Relief for Family Caregivers Who Are Discriminated Against on the Job*, 26 HARV. WOMEN'S L.J. 77 (2003); Joan C. Williams & Consuela A. Pinto, *Family Responsibilities Discrimination: Don't Get Caught Off Guard*, 22 LAB. LAW. 293 (2007); Joan C. Williams, *Reconstructive Feminism: Changing the Way We Talk about Gender and Work Thirty Years After the PDA*, 21 YALE J.L. & FEMINISM 79 (2009). Professor Williams carries forward much of her political project through the Center for WorkLife Law, a nonprofit research and advocacy group housed at the University of California Hastings College of Law. *About Us*, CTR. FOR WORKLIFE LAW, http://www.worklifelaw.org/AboutUs.html (last visited Feb. 15, 2011).

women who, within the heteronormative family context,[2] are pushed out, opt out, or remain in the work force, usually underutilized and under-compensated;[3] bear a disproportionate share of care responsibilities within the family;[4] and suffer economically and socially if they become divorced.[5] In *Reshaping the Work-Family Debate: Why Men and Class Matter*, Williams continues a theme that she has emphasized throughout her work: Women are not the only victims of work-family conflict—men, too, are caught in "the straitjacket of conventional masculinity."[6]

Joan Williams, in *Reshaping the Work-Family Debate*, sets forth the theoretical and factual bases for developing a pragmatic political agenda to remedy a workplace that is hostile to families.[7] Although Professor Williams sees the power that courts have in this arena to effect change,[8] she concludes that real change must be effectuated in the legislative realm. Her goal in casting men as victims can be seen as connected to her overarching goal: "Writ large, this book is about reframing American politics."[9] Williams believes that in order to bring about policy changes that would result in a more family-friendly workplace to the benefit of men, women, and children, progressives must develop a coalition that includes the White working class, including White men.[10]

As a consequence, much of Williams's book is focused on the White working class and White men.[11] She justifies her choices because

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2. To her credit, Professor Williams specifically recognizes the limitations of the heteronormative family framework. *See* JOAN WILLIAMS, UNBENDING GENDER: WHY FAMILY AND WORK CONFLICT AND WHAT TO DO ABOUT IT 8–9 (2000).

3. *See* JOAN C. WILLIAMS, RESHAPING THE WORK-FAMILY DEBATE: WHY MEN AND CLASS MATTER 24–26 (2010).

4. *See*, *e.g.*, *id.* at 32 (By one measure, housework, Williams reports that "[w]hen husbands become sole earners, wives do three times as much housework as their husbands, up from a 2:1 ratio among two-job couples."). Williams similarly reported, "American women still do 80 percent of the child care and two-thirds of the housework." UNBENDING GENDER, *supra* note 2, at 2.

5. WILLIAMS, *supra* note 3, at 21 ("Divorced women in the United States are five times more likely to live in poverty during retirement than married women.").

6. *Id.* at 83. This theme was also an important one in her first book. *See* WILLIAMS, *supra* note 2, at 3 ("[D]omesticity's peculiar structuring of market work and family work hurts not only women but also men, children, politics, and our emotional life.").

7. *See generally* WILLIAMS, *supra* note 3.

8. Professor Williams provided some specific prescriptions for the courts, noting that "[c]ourts, if they chose, could effect tomorrow the paradigm shift from attributing the economy of mothers and others to 'mothers' choice,' to attributing it to discrimination against women." WILLIAMS, *supra* note 2, at 274.

9. WILLIAMS, *supra* note 3, at 1.

10. *Id.* at 211–13.

11. *See, e.g.*, *id.* at 9. For a critique of Professor Williams's discussion of race in the work-family debate, see Richard Delgado, *Race, Sex, and the Division of Labor: A Comment on Joan Williams's* Reshaping the Work-Family Debate, 34 SEATTLE U. L. REV. 835, 836–37 (2011); Jean Stefancic, *Talk the Talk, but Walk the Walk: A Comment on Joan Williams's* Reshaping the Work-Family Debate, 34 SEATTLE U. L. REV. 815, 823 (2011).

"political scientists tell us that white workers are the swing demographic of 'Reagan Democrats' who have shifted Republican since 1970."[12] This shift to the Republican Party is gendered: "working-class men have abandoned the Democrats in far greater percentages than have working-class women,"[13] justifying a focus on White men. Williams's analysis of this shift:

> [M]en have done so . . . in part because of white workers' anxieties over their increasing inability to realize the conventional ideal of what it means to be a "real man," that is to be a breadwinner able to "support his family." The ability to fulfill ideals of manliness has become a class-linked privilege.[14]

Professor Williams believes that the interests of the White working class and White men can be aligned with a progressive agenda to transform the workplace to the benefit of all workers and to have the salutary effect of reducing the current negative economic consequences experienced by women. The organizing principle revolves around what Williams presumes to be a shared answer to the question: "Should an employer be able to keep you from doing right by your family?"[15] She believes that "[b]uilding a coalition to enact policies that enable Americans to balance work and family responsibilities should be within the realm of possibility,"[16] but in order to be successful, the coalition must include this "Missing Middle."[17]

Although a significant portion of the book is about what Williams characterizes as the "Missing Middle," the book seems directed toward a certain group of progressives: reform-minded elites, many of whom are drawn from the professional-managerial class.[18] Williams exhorts these elites to take the lead to end the class wars.[19] These marching orders reveal that Williams intends the professional-managerial class to be a primary audience for the book's messages.

Williams recognizes that it is not just a one-way street:

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12. WILLIAMS, *supra* note 3, at 9.

13. *Id.*

14. *Id.*

15. *Id.* at 211.

16. *Id.* at 2.

17. *Id.* at 152 (citing THEDA SKOCPOL, THE MISSING MIDDLE: WORKING FAMILIES AND THE FUTURE OF AMERICAN SOCIAL POLICY (2000); John McTague, Bowling for Voters? In Search of the White Working Class in American Politics 3, 15, 17–18 (Mar. 13, 2009) (unpublished manuscript), *available at* www.bsos.umd.edu/gvpt/apworkshop/mctague2009.pdf). The term Missing Middle refers to the White working class and White men in particular.

18. *See*, *e.g.*, *id.* at 10.

19. *Id.* at 211–14.

> This is not to say that change needs to come from only one direction. No doubt some Americans in the Missing Middle are guilty of painting upper-middle-class Americans as unpatriotic, immoral, and more. But the question is whether progressives want to insist on an apology before they begin working to change a cultural dynamic that has had disastrous political consequences.[20]

Reform-minded elites are supposed to take the high road, something they apparently did with regard to developing coalitions with racial minorities:

> Upper-middle-class progressives aptly addressed and incorporated issues of racial privilege; they should follow the same path with respect to class. The literature on white privilege shows how one can listen sensitively to the complaints of a less privileged group without insisting that they stop hurting one's feelings first.[21]

I agree with Professor Williams that in order to work together, both groups must put aside egos and hurt feelings. What I am less certain about is how far her blueprint takes us toward developing effective coalitions. It underestimates the powerful psychological forces at work and the investments that have been made in racialized and gendered identity formations—investments that present very serious challenges for persuading the Missing Middle to join forces with progressives to pass legislation necessary to alter the workplace, even if it is in the Missing Middle's own self-interest.

II. THE WAGES OF WHITENESS AND MALENESS AND CATEGORICAL INVESTMENTS

Several years ago, Cheryl Harris told us that Whiteness is property, a valuable resource for those able to claim it.[22] She told the story of her light-skinned grandmother who, facing limited economic opportunities as a Black woman, applied for a job at an upscale Chicago department store: "This decision would have been unremarkable for a white woman in similar circumstances, but for my grandmother, it was an act of both great daring and self-denial, for in so doing she was presenting herself as a white woman. In the parlance of racist America, she was 'passing.'" [23]

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20. *Id.* at 213.

21. *Id.*

22. Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1709, 1713 (1993).

23. *Id.* at 1710. Passing, of course, raises the question as to what constitutes race, where it has both legal and social dimensions along with essential and performative aspects. *See generally* Adrian Piper, *Passing for White, Passing for Black*, *in* PASSING AND THE FICTIONS OF IDENTITY 234 (Elaine K. Ginsberg ed., 1996).

Had she revealed her "real" racial identity, she would not have been hired by this "fine establishment" where "understated tastes required that blacks not be allowed."[24] This story illustrates one of the ways that benefits could be obtained and disabilities avoided by those able to access White privilege.[25] Harris went on to describe how this White privilege becomes entrenched and self-perpetuating in systems that reward seniority.[26] What would it take for those who have benefited and continue to benefit from unmerited or partially merited accrual of seniority to divest themselves of un(der)deserved benefits? Harris argues that failing to acknowledge and redress this situation is akin to treating Whiteness and its accompanying benefits as an inalienable property right.[27]

George Lipsitz, building on this idea, talks about the possessive investment in Whiteness.[28] Not only is there a property value in Whiteness that is protected by law and legal institutions, but Whites and various institutions, including our government, have invested and continue to invest in Whiteness:

> [T]he possessive investment in whiteness is not simply the residue of conquest of colonialism, of slavery and segregation, of immigrant exclusion, and "Indian" extermination. Contemporary whiteness and its rewards have been created and recreated by policies adopted long after the emancipation of slaves in the 1860s and even after the outlawing of de jure segregation in the 1960s.[29]

For example, "During the New Deal Era of the 1930s and 1940s, both the Wagner Act and the Social Security Act excluded farmworkers and domestic[] [workers] from coverage, effectively denying those disproportionately minority sectors of the work force protections and benefits routinely afforded whites."[30] Although domestic workers eventually became covered under the Social Security Act, recent reforms have decreased coverage for domestic workers.[31] When you consider that it takes the average social security recipient almost seventeen years to run

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24. Harris, *supra* note 22, at 1711.

25. *See also* Peggy McIntosh, *White Privilege and Male Privilege: A Personal Account of Coming to See Correspondences Through Work in Women's Studies*, *in* POWER, PRIVILEGE AND LAW: A CIVIL RIGHTS READER 22 (Leslie Bender & Daan Braveman eds., 1995).

26. Harris, *supra* note 22, at 1776.

27. *Id.* at 1791.

28. GEORGE LIPSITZ, THE POSSESSIVE INVESTMENT IN WHITENESS: HOW WHITES BENEFIT FROM IDENTITY POLITICS (1998).

29. *Id.* at 4.

30. *Id.* at 5.

31. *See* Taunya Lovell Banks, *Toward a Global Critical Feminist Vision: Domestic Work and the Nanny Tax Debate*, 3 J. GENDER RACE & JUST. 1, 12 (1999).

through the amount they paid into the program,[32] along with the disparate life expectancies for Whites and Blacks,[33] the result is that Whites have been and continue to be disproportionately benefited by programs such as Social Security.

Investments in Whiteness helped to produce, legally and extra-legally, the creation and maintenance of segregated neighborhoods, segregated schools, and racially stratified and segregated workplaces.[34] When these investments come under attack through racial remediation efforts, the result often is an intensification of White identity. In a piece commemorating the fiftieth anniversary of *Brown v. Board of Education*, my co-author and I wrote:

> [A]ny form of desegregation will be experienced negatively by whites who value consciously/unconsciously/subconsciously the attendant privileges of whiteness. This negative feeling will range from annoyance at the imposition to outright anger over the theft of their white privilege. The resentment that racial remediation fosters will strengthen whiteness experienced as an oppositional identity. We believe that civil rights advocates have underestimated the intensity and pervasiveness of this feeling among whites.[35]

Today, affirmative action is a key area where White racial identity is experienced and intensified.

III. A LESSON FROM THE AFFIRMATIVE ACTION WARS OF THE 1990S

Fifteen years ago, when Proposition 209—which eliminated affirmative action in public employment, public education, and public contracting—was being contested in California, I wondered about the way the debate over it had been racialized and how gender had dropped out of the picture.[36] I did not know what to make of this, given the fact that the primary beneficiaries of affirmative action were White women.[37]

In theory, because White women had been the primary beneficiaries of affirmative action, they should have been the primary targets of the

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32. C. EUGENE STEUERLE & STEPHANIE RENNANE, URBAN INST., SOCIAL SECURITY AND MEDICARE TAXES AND BENEFITS OVER A LIFETIME (2011).

33. U.S. CENSUS BUREAU, THE 2011 STATISTICAL ABSTRACT tbl.102 (2011), http://www.census.gov/compendia/statab/2011/tables/11s0103.pdf.

34. Robert S. Chang & Jerome M. Culp, Jr., *Business as Usual?* Brown *and the Continuing Conundrum of Race in America*, 2004 U. ILL. L. REV. 1181, 1188–93.

35. *Id.* at 1199.

36. Robert S. Chang, *Reverse Racism!: Affirmative Action, the Family, and the Dream that is America*, 23 HASTINGS CONST. L.Q. 1115, 1129–30 (1996).

37. *Id.* (citing NATALIE J. SOKOLOFF, BLACK WOMEN AND WHITE WOMEN IN THE PROFESSIONS 18–19 (1992)).

anti-affirmative action forces.[38] But the vote of White women was considered crucial for the so-called California Civil Rights Initiative.[39] So, rather than attack them as the beneficiaries of affirmative action, Proposition 209 proponents constructed a narrative that appealed to White women voters through the threat that affirmative action posed to their families.[40]

White women have brothers and sons, and—making a heterosexist assumption—they have husbands. Their husbands are overwhelmingly White.[41] An appeal to family does the work of an explicit call to racial solidarity. "Insofar as affirmative action is blamed for white men not getting jobs or admission to schools," and insofar as White women see these "men as their husbands, brothers, and sons, affirmative action is actually hurting the families of white women."[42] Patricia Ireland, president of the National Organization for Women, says that "initiative backers are playing on people's worries about their jobs by arguing that affirmative action is the reason 'a lot of white men are unemployed . . . not because of corporate downsizing, automation, computerization, all the reasons there has been a shift in the economy.'"[43] Affirmative action became a scapegoat.

One key to the success of this strategy was patriarchy. Because patriarchy operates in such a way that women earn only seventy-one cents for every dollar a man makes,[44] the economic interests of White women may be better served if their husbands, brothers, and sons do well.[45] Instead of gender solidarity between White women and women of color, and gender conflict between White women and White men, the result is White racial solidarity, achieved through an appeal to family. Never mind that this solidarity means White women are to sacrifice their own opportunities and those of their sisters and daughters.

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38. *Id.* at 1130.

39. Susan Sward, *Generation Gap, Color Gap: Women Split on Affirmative Action*, S.F. CHRON., Mar. 31, 1995, at A1 ("[F]emale voters are bound to be a prime target for both initiative backers and foes: As women go, so may go the war.").

40. Chang, *supra* note 36, at 1130.

41. In 1987, 99% of married Whites were wedded to other Whites. Roger Sanjek, *Intermarriage and the Future of Races in the United States*, *in* RACE 103, 114 (Steven Gregory & Roger Sanjek eds., 1994).

42. Chang, *supra* note 36, at 1130. *Cf.* Ramon G. McLeod, *Family Ties Help Explain Why Women Are Split: Many Worried About Husbands' Jobs*, S.F. CHRON., Mar. 31, 1995, at A4 ("[U]nless affirmative action advocates can convince these women that the policy that helped them individually will not hurt their family's economic security, white women cannot be counted on at the polls.").

43. Sward, *supra* note 39 (quoting Patricia Ireland).

44. *Id.*

45. *See* McLeod, *supra* note 42.

It seemed that a "natural coalition might have developed between white women and women of color based on shared gender oppression, or between white women and people of color based on more broad-based societal oppression."[46] Those opposing Proposition 209, however, failed to gain support from White women.[47] According to polls, "approximately 65% of white women were in favor of the so-called civil rights initiative" that would do away with race and gender affirmative action.[48]

A lesson from Proposition 209 that can be applied to Professor Williams's theories is that understanding self-interest and appealing to it is complicated, especially where race and gender are involved.

IV. WINNING HEARTS AND MINDS

One immediate problem for progressives in their campaign to win the hearts and minds of the Missing Middle is the stance that progressives have taken in support of affirmative action. This stance will immediately cause suspicion among the Missing Middle when progressives try to build bridges with them to end the culture wars. Professor Williams understands that, in the face of this suspicion, it might be expedient for progressives, seeking to bring in the Missing Middle, to jettison their commitment to Blacks. She expresses very strongly, however, that she will not sacrifice the interests of Blacks in the pursuit of this coalition.[49]

Instead, Professor Williams tries to reinterpret the Missing Middle's opposition to affirmative action by suggesting that its opposition stems from its class position: "Conventional affirmative action programs are a formal expression of the view that race and gender are the key (or sole?) axes of disadvantage in the United States. From the viewpoint of those disadvantaged by class, this is infuriatingly inaccurate."[50]

Her solution to this appropriate class anger, at times misdirected along racial lines, is to add class as a disadvantaged category for purposes of affirmative action. Williams states, "I am not saying that it would be easy to design affirmative action programs that take class disadvantage into account in an appropriate way. I am saying that it is worth the effort."[51] She seems to suggest that including class in affirmative action programs would diminish the opposition in the Missing Middle to affirmative action on the basis of race and gender, thus making it possible for

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46. Chang, *supra* note 36, at 1130.

47. *Id.* (citing Charles Oliver, *Next Hot Button in California*, INV. BUS. DAILY, May 9, 1995, at A1).

48. *Id.* (citing Sward, *supra* note 39).

49. *See* WILLIAMS, *supra* note 3, at 196 ("Let me say clearly that progressives will not, and should not, pander to racism.").

50. *Id.* at 203.

51. *Id.*

progressives to come together with the Missing Middle.[52] While this inclusion is possible, I am not sure that this analysis takes sufficient account of the power of identity categories, especially those in which large investments have been made, and the extreme possessiveness with which these investments are protected.

Professor Williams gives a nod to W. E. B. DuBois's concept of the psychological wages of Whiteness when she refers to David Roediger's explanation that "white workers assuaged the hidden injuries of class by embracing white privilege. This is part of a larger pattern, in which social groups attempt to compensate for social disadvantage by seeking to emphasize their membership in a group that enjoys privilege."[53]

Professor Williams does not, however, acknowledge that this notion of a psychological wage applies equally to maleness, such that male workers assuage the hidden injuries of class by embracing male privilege. In a fashion similar to White women who were unwilling in the affirmative action context to give up the psychological and economic wages that Whiteness provided, men in the Missing Middle will not give up the wages of maleness. Anxiety is going to prevent White men from giving up the psychological and economic wages of maleness that they currently have in the workplace. It will not be enough to tell men that a rejection of the ideal-worker norm in the workplace and a shift away from current masculine norms at work will allow them to honor what they express as the paramount importance of family.

To give up the wages of maleness, men would have to sacrifice the dominance they now enjoy based on their superior position as it manifests itself in society and in the home. It is not apparent that the organizing question, "Should an employer be able to keep you from doing right by your family?" will provide a strong enough basis for bringing and keeping people together.[54]

Progressives face a double problem with regard to the Missing Middle, which encompasses the White working class and, in particular, White working-class men. First, because of the strong association between progressives and their support for affirmative action, overtures from progressives to the Missing Middle will be viewed with suspicion. Second, an incomplete case has been made for White working-class men to give up the wages of maleness.[55]

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52. *Id.*

53. *Id.* at 196–97.

54. WILLIAMS, *supra* note 3, at 211.

55. Katharine B. Silbaugh develops a similar argument in this Colloquy. Katharine B. Silbaugh, *Deliverable Male*, 34 SEATTLE U. L. REV. 733 (2011).

V. CONCLUSION

Professor Williams ends her first book, *Unbending Gender*, by calling for dialogue that is anchored by certain basic commitments: "to equal opportunities for meaningful (market and family) work, to equalize entitlements to bodily integrity, to ending the eroticizing of dominance."[56] She identifies the ideal-worker norm as a major impediment to achieving equal opportunities for meaningful market and family work.[57] She also identifies gender wars as a major impediment to achieving gender equality and offers reconstructive feminism as a way to navigate the theoretical land mines that had resulted in destructive internecine warfare between women who otherwise shared the basic commitments outlined above.[58]

In *Reshaping the Work-Family Debate*, Professor Williams rearticulates these critiques. Her critique of the ideal-worker norm has evolved into a critique of masculine norms at work.[59] Gender wars and reconstructive feminism remain largely the same, though they are updated to include third-wave feminism.[60] Professor Williams argues that class wars, played out as culture wars, are the major impediments to bringing about a coalition that could recreate the workplace to be less hostile to family, to the benefit of all.[61] As usual, her analysis is brilliant. But I might bring her back to what she ended her first book with, the call for a dialogue. As it is, a primary audience for *Reshaping the Work-Family Debate* is the group of reform-minded elites. They are the ones who are called on to take the lead, to stop insulting the working class, to foster connection with them.

I would suggest that the Missing Middle is not intended to be a primary audience for this book. With progressives leading the way, the danger is that the Missing Middle is being spoken to rather than actually being brought into conversation. We need to think more about how to have a conversation in light of the barriers that exist because of the psychological and material wages of Whiteness and maleness. Professor Williams is absolutely right that the "difficult conversations about masculinity and class privilege, conversations in which our identities . . . seem at stake," must be made "with due respect for the fragility that sometimes plagues all of us."[62] She is also absolutely right that we must raise these questions "if we are to build a progressive future."[63]

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56. WILLIAMS, *supra* note 3, at 276.
57. *Id.* at 174.
58. *See generally id.*
59. *Id.* at 59–60.
60. *Id.* at 100–03, 118–22, 140–42, 148–49.
61. *See generally id.* at 187–214.
62. *Id.* at 11.
63. *Id.*