

# CROWDSOURCING THE WORK-FAMILY DEBATE: A COLLOQUY

## Introduction

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Professor Joan C. Williams<sup>1</sup> “seeks to build bridges”<sup>2</sup> across audiences and disciplines with her latest book, *Reshaping the Work-Family Debate: Why Men and Class Matter*.<sup>3</sup> She also attempts to bridge seemingly insuperable chasms of gender and class, to encourage the formation of a political coalition that is simultaneously profamily and prowork. In Web 2.0 argot, “crowdsourcing” is a distributed, networked computing method of solving problems through the combination of ideas from individual sources and different perspectives.<sup>4</sup> This issue of the *Seattle University Law Review* features ten other distinguished legal scholars who add their designs to Williams’s bridge blueprint through scholarly

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1. Professor Joan C. Williams is a Distinguished Professor of Law, 1066 Foundation Chair, founding Director of the Center for WorkLife Law at University of California, Hastings College of the Law, and Co-Director of the Project on Attorney Retention (PAR). As part of its Influential Voices lecture series, Professor Williams spoke at Seattle University School of Law on October 12, 2010. Her talk was entitled “Jump-Starting the Stalled Revolution: Including Men and Class in the Work-Family Debate.” She also conducted a faculty seminar around her book, in which she modeled the consensus-building conversation that is the goal of this work.

2. JOAN C. WILLIAMS, *RESHAPING THE WORK-FAMILY DEBATE: WHY MEN AND CLASS MATTER* 11 (2010) [hereinafter WILLIAMS, *RESHAPING THE DEBATE*].

3. *Id.*

4. Jeff Howe, *The Rise of Crowdsourcing*, WIRE MAG. (June 2006), [http://www.wired.com/wired/archive/14.06/crowds\\_pr.html](http://www.wired.com/wired/archive/14.06/crowds_pr.html) (“[S]mart companies in industries as disparate as pharmaceuticals and television [are discovering] ways to tap the latent talent of the crowd. . . . It’s not outsourcing; it’s crowdsourcing.”). Examples include Wikipedia entries, which are done by volunteers rather than a central editorial staff, and Twitter, which allows many people to share their opinions about movies or music or restaurants.

crowdsourcing. Their approaches result in surprising, sometimes provocative new ideas for cultural, legal, and policy reform at the nexus of work and family.

As a serendipitous preface to this Colloquy, the Law Review republishes *Women at the Bar—A Generation of Change* by U.S. Supreme Court Justice Ruth Bader Ginsburg—first published in this Law Review in 1978.<sup>5</sup> Justice Ginsburg’s early legal advocacy as general counsel for the ACLU Women’s Rights Project—reprinted in *Reshaping the Work-Family Debate*<sup>6</sup>—resulted in pathbreaking U.S. Supreme Court cases that shifted equality jurisprudence and discouraged unequal treatment on the basis of sex. Professor Williams points out that “[m]ere formal equality was never Ginsburg’s goal. Instead her goal was to deconstruct separate spheres, by enabling women to gain access to roles traditionally reserved for men and enabling men to gain access to roles traditionally reserved for women.”<sup>7</sup> The latter strategy is illustrated by Ginsburg’s challenge to “the rule that mothers but not fathers could claim Social Security survivors’ benefits to care for the decedent’s children”<sup>8</sup> in the case of *Weinberger v. Wisenfeld*.<sup>9</sup> This argument disrupted the domesticity norm that still typically assigns women to the child-rearing role, and is a direct legal antecedent to Professor Williams’s current proposal, which treats masculine workplace norms as one of the primary impediments to family-friendly workplaces. Justice Ginsburg’s optimistic greeting of today<sup>10</sup> reminds us—two or more generations after her pioneering legal work as a lawyer—that much positive change has occurred since 1978. Yet much still remains to be done in advocating for equality along a gender axis that aligns with family-friendly workplace policies.

The center of gravity of Professor Williams’s book is her intersecting analysis of masculine workplace norms<sup>11</sup> and class expectations regarding family care. As she puts it, “Masculinity holds the key to under-

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5. Ruth Bader Ginsburg, *Women at the Bar—A Generation of Change*, 2 U. PUGET SOUND L. REV. 1 (1978), reprinted in 34 SEATTLE U. L. REV. 649 (2011). The University of Puget Sound School of Law became the Seattle University School of Law in 1994. Similarly, the *University of Puget Sound Law Review* was succeeded by the *Seattle University Law Review*.

6. WILLIAMS, *RESHAPING THE DEBATE*, *supra* note 2, at 115–16; JOAN WILLIAMS, *UNBENDING GENDER: WHY WORK AND FAMILY CONFLICT AND WHAT TO DO ABOUT IT* 208–09, 219–22 (paperback ed. 2001) [hereinafter WILLIAMS, *UNBENDING GENDER*].

7. WILLIAMS, *RESHAPING THE DEBATE*, *supra* note 2, at 115 (footnote omitted).

8. WILLIAMS, *UNBENDING GENDER*, *supra* note 6, at 208–09.

9. 420 U.S. 636 (1975).

10. Ruth Bader Ginsburg, *Women at the Bar—A Generation of Change*, 34 SEATTLE U. L. REV. 649 (2011) (prefacing the reprinted edition).

11. WILLIAMS, *RESHAPING THE DEBATE*, *supra* note 2, at 77–109 (Chapter 3, “Masculine Norms at Work”).

standing why the gender revolution has stalled.”<sup>12</sup> After telling us why, she shifts her focus to the class culture gap,<sup>13</sup> as well as the ensuing conflicts around workplace reform driven by differing class experiences and expectations of masculinity.<sup>14</sup> Race is mostly treated as a subset of either the gender<sup>15</sup> or class analytical frameworks.<sup>16</sup> Each of the responses here addresses at least one of three possible organizing vectors (gender, class, and race norms) as a point of convergence and departure from Williams’s underlying empirical, normative, and theoretical assumptions. At risk of either revealing too much or effacing their nuances, I attempt to situate these responses briefly here along these three axes.<sup>17</sup>

### I

The first cluster of responses—by Professors Burkstrand-Reid, Kessler, McGinley, Ramachandran, and Silbaugh—centers primarily around gender-based masculinity norms. In “*Trophy Husbands*” & “*Opt-Out*” Moms,<sup>18</sup> Professor Burkstrand-Reid carefully analyzes a subset of men who apparently have been able to withstand strong gender norms to become so-called “trophy husbands.” But certain media narratives around these men who “choose” family over work may downplay how they might, in fact, be supporting a woman who is an “ideal worker” (a term coined by Williams in earlier works)<sup>19</sup> according to traditional masculine norms. These trophy husbands may not, therefore, be work and family revolutionaries. Rather, they may be reinforcing dominant gender norms within opposite-sex bodies. In making this analytical move, Burkstrand-Reid pays homage to Williams’s overall body of work, which focuses on the fragility and possible falsity of the term “choice” as applied to women’s decisions to leave the workplace in order to support their “ideal worker” husbands within opposite-sex marriages.<sup>20</sup>

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12. *Id.* at 79.

13. *Id.* at 151–86 (Chapter 5, “The Class Culture Gap”).

14. *Id.* at 187–214 (Chapter 6, “Culture Wars as Class Conflict”).

15. *See, e.g., id.* at 83–103.

16. *See, e.g., id.* at 196–203.

17. The predominant emphases and conclusions of these authors fall within diverse theoretical frameworks including but not limited to feminist theory, inflected and influenced by masculinities studies and queer theory; class-based analysis; literary theory; and critical race theory. This brief introduction cannot do full justice to the creativity and nuances of these participants’ overlapping, diverging, and occasionally mutually reinforcing ideas, or of Professor Williams’s overall body of work.

18. Beth A. Burkstrand-Reid, “*Trophy Husbands*” & “*Opt-Out*” Moms, 34 SEATTLE U. L. REV. 663 (2011).

19. WILLIAMS, UNBENDING GENDER, *supra* note 6, at 1 (“The ideal worker . . . works full time and overtime and takes little or no time off for childbearing or child rearing.”); WILLIAMS, RESHAPING THE DEBATE, *supra* note 2, at 80–83.

20. WILLIAMS, UNBENDING GENDER, *supra* note 6, at 14.

Similarly, in *Feminism for Everyone*,<sup>21</sup> Professor Kessler situates this book within Williams's overall corpus, which is grounded in a deep feminist commitment. It also posits a structural, economic basis for the domesticity ideology that separates men's and women's work into two separate spheres. Kessler recognizes that Williams's newer work expands this feminist-materialist approach toward addressing gender-based economic inequalities. At the same time, Williams is also deeply pragmatic in choosing to communicate her progressive vision through language accessible to those with whom she may not always agree, as well as in urging coalitional political reform. Kessler admiringly calls the proposals in *Reshaping the Work-Family Debate* a unification of "feminism and pragmatism into a theoretical and strategic whole that is greater than the sum of its parts,"<sup>22</sup> and even likens Williams's work to an M.C. Escher woodcut.<sup>23</sup> In addition, Kessler poignantly elaborates on the context for Williams's arguments, that is, within a rapidly growing economic gulf in the United States between the very wealthy and the rest.

In *Work, Caregiving, and Masculinities*,<sup>24</sup> Professor McGinley provides a detailed tour of the field of masculinities studies. McGinley predicts that class differences in the performance of masculinity may result in different manifestations of caretaking rhetoric, and that actual care may depend upon how men are situated in the class hierarchy. In evaluating Williams's observations of men "caring in secret," McGinley observes that "[m]asculinities theory suggests that Williams's class and gender argument is accurate. Ironically, it is a performance of masculinity for a working class man to refuse to discuss his child care responsibilities with his male coworkers"<sup>25</sup> even at the risk of being fired. Like Williams, McGinley offers specific, useful proposals for legal and social change in further support of the book's stated project of disrupting masculine norms to lessen work-family conflict for both men and women.<sup>26</sup>

The next two commentators are perhaps slightly more skeptical of Professor Williams's approaches if not her commitments to changing masculine workplace norms. In *Confronting Difference and Finding Common Ground*,<sup>27</sup> Professor Ramachandran candidly observes that the

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21. Laura T. Kessler, *Feminism for Everyone*, 34 SEATTLE U. L. REV. 679 (2011).

22. *Id.* at 692.

23. *Id.* at 690.

24. Ann C. McGinley, *Work, Caregiving, and Masculinities*, 34 SEATTLE U. L. REV. 703 (2011).

25. *Id.* at 716.

26. *Id.* at 716–23.

27. Gowri Ramachandran, *Confronting Difference and Finding Common Ground*, 34 SEATTLE U. L. REV. 725 (2011).

“‘family first’ values”<sup>28</sup> of working-class men and women cannot always be good all the time, whether for companies or for the families themselves, especially if these values delay reckoning with unavoidable structural changes occurring in the global economy. And she worries that the proposal unwittingly reinforces gender conformity by appealing to families that would prefer to have more child care by some family member—typically the mother. Thus, Ramachandran seeks a proposal that minimizes harmful gender norms while being supportive of gender nonconformity<sup>29</sup> to promote overall social welfare.

Likewise, but for different reasons, in *Deliverable Male*,<sup>30</sup> Professor Silbaugh advocates a more rapid change in gender norms than Williams might endorse. Silbaugh delves into the current crisis around masculinity, reflected in recent statistics regarding men’s higher unemployment and school drop-out rates. She characterizes Williams’s proposal as a “‘covering’ strategy for men.”<sup>31</sup> According to Silbaugh, Williams’s strategy allows men to save face with respect to their traditional masculine prerogatives but may ultimately be self-defeating given the rapid changes occurring in workplace environments. While Silbaugh is sympathetic to Williams’s proposal as a political matter, she argues vigorously for men to assimilate to norms that women have used to achieve recent success in education and at work rather than to tarry too long in outmoded and harmful, if comfortable, norms of masculinity.

## II

The three pieces in the second cluster—by Professors Levit, Pruitt, and Stefancic—emphasize the class dimension of Williams’s analysis. Professor Levit superbly contextualizes the media narratives around work and family in *Reshaping the Narrative Debate*.<sup>32</sup> Once considered controversial within legal scholarship, “narrative” has crossed over into everyday vernacular and has become a commonplace meme in scholarship, media analyses, and even political rhetoric.<sup>33</sup> The power of narrative methodology is further supported by recent work in cognitive psychology, which demonstrates that humans respond to stories in a more profound way than they do to loosely connected facts. When unmediated

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28. *Id.* at 730.

29. *Id.* at 730–31.

30. Katharine B. Silbaugh, *Deliverable Male*, 34 SEATTLE U. L. REV. 733 (2011).

31. *Id.* at 735 (citing KENJI YOSHINO, *COVERING: THE HIDDEN ASSAULT ON OUR CIVIL RIGHTS* (2006)).

32. Nancy Levit, *Reshaping the Narrative Debate*, 34 SEATTLE U. L. REV. 751 (2011).

33. See, e.g., Paul Krugman, *Misguided Narratives*, N.Y. TIMES BLOG (February 21, 2011, 9:04 AM), <http://krugman.blogs.nytimes.com/2011/02/21/misguided-narratives/?scp=5&sq=paul%20krugman&st=Search>.

by robust critique and debate, however, dominant media narratives can distort these underlying facts, including the dynamics of class within the work-family debate. Both Levit and Williams point out that the mainstream media overemphasizes stories of professional women (the “opt-out” narrative)<sup>34</sup> and underreports the stories of working-class women who actually leave work in greater proportion to their numbers than do professional women because of the difficulty in conforming to rigidly family-unfriendly workplace rules. By these and other omissions, the media presents a highly skewed picture, one that benefits from scholarly deconstruction in order to generate more accurate understandings of class-based differences in family and work norms.

In *The Geography of the Class Culture Wars*,<sup>35</sup> Professor Pruitt boldly addresses the class issue within a framework of the urban–rural divide, especially as mirrored in divisive political rhetoric throughout the last presidential election. Building on Williams’s initial distinction between the settled working class and the hard living in urban enclaves,<sup>36</sup> Pruitt delineates three classes within racially homogenous rural communities, and posits that “[e]ach class judges the next class down, seeking bases for differentiation.”<sup>37</sup> Those in the second layer of this rural “Missing Middle”<sup>38</sup> place a high value on work, although possibly not on the self-actualizing work to which those in the professional-managerial class aspire. According to Pruitt, a coalition between the urban elite and the rural middle around the common value of work (regardless of the reasons for valuing it) might unite them in a campaign for more equitable work-family policies.

Professor Stefancic gives further nuance to Williams’s class analysis in *Talk the Talk, but Walk the Walk: A Comment on Joan Williams’s Reshaping the Work-Family Debate*.<sup>39</sup> Stefancic analyzes the factors that make the United States a child-unfriendly nation, including the “intensification of U.S. corporate culture that has dominated the last four decades.”<sup>40</sup> From that more specific platform, she reflects on class differences. While professing some skepticism toward the possibility of lasting coalitions between the working class and elites, Stefancic urges those

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34. WILLIAMS, RESHAPING THE DEBATE, *supra* note 2, at 14–15.

35. Lisa R. Pruitt, *The Geography of the Class Culture Wars*, 34 SEATTLE U. L. REV. 767 (2011).

36. WILLIAMS, RESHAPING THE DEBATE, *supra* note 2, at 164–66.

37. Pruitt, *supra* note 35, at 804.

38. WILLIAMS, RESHAPING THE DEBATE, *supra* note 2, at 156 (“I combine the groups Gilbert calls ‘middle’ and ‘working’ class and refer to them either as the ‘Missing Middle’ . . . or ‘working class’ . . .”).

39. Jean Stefancic, *Talk the Talk, but Walk the Walk: A Comment on Joan Williams’s Reshaping the Work-Family Debate*, 34 SEATTLE U. L. REV. 815 (2011).

40. *Id.* at 816.

within the professional-managerial class to learn about labor history (including racial history, which is inextricably intertwined with class-based oppression). She also advocates for political progressives in this class to align themselves more squarely with working-class concerns. According to Stefancic, if we better understand class dynamics and can identify common concerns across class categories, we might go some way toward countering the consolidation of corporate power currently underway.

### III

In addition to Professor Stefancic, contributions by two other members of the Seattle University faculty—Professors Chang and Delgado—delve further into the racial implications of Williams's work. In *Joan Williams, Coalitions, and Getting Beyond the Wages of Whiteness and the Wages of Maleness*,<sup>41</sup> Professor Chang investigates the impossibility of political alignments in this area without explicitly confronting the question of race. Like Stefancic, Chang predicts that cross-class coalitions will be tentative, if at all feasible. Chang's critical race insights posit an unacknowledged but deep investment or property interest in one's dominant racial identity; Chang explains, for example, why white women may not support government policies that might benefit all women as a group. The former may protect their investment in their dominant racial identity (whiteness), even at the cost of overall gender inequality, because their primary identity allegiance may be to their same-race or same-class families. Chang convincingly argues that before we can coalesce around work-family policies, we must acknowledge, and somehow overcome, these strong social investments.

Finally, in *Race, Sex, and the Division of Labor: A Comment on Joan Williams's Reshaping the Work-Family Debate*,<sup>42</sup> Professor Delgado situates the gendered division of labor within a historical framework that foregrounds race. In doing so, he resists any seamless coalition between white professional-managerial class inhabitants and those in the Missing Middle, many of whom are racialized. The interests of these differently situated bodies diverge, as embodied in Jean-Francois Lyotard's notion of *le différend*—according to Delgado—“when a group does not see itself in the coercive language of another, superior group.”<sup>43</sup> The professional-managerial audience to which Williams addresses much of her argument is one that habitually renders racialized class divisions invis-

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41. Robert S. Chang, *Joan Williams, Coalitions, and Getting Beyond the Wages of Whiteness and the Wages of Maleness*, 34 SEATTLE U. L. REV. 825 (2011).

42. Richard Delgado, *Race, Sex, and the Division of Labor: A Comment on Joan Williams's Reshaping the Work-Family Debate*, 34 SEATTLE U. L. REV. 835 (2011).

43. *Id.* at 842.

ble. Thus, Delgado posits that these proposals might benefit from a greater recognition that meaningful conversation about underlying economic and racial issues must circulate in multiple directions. These ultimate contributions to this Colloquy form an important bookend. They reiterate the challenges of coalition building for social justice, the goal that Williams sets forth with her bridge-building metaphor. All ten participants in this Colloquy aspire to the same end as Professor Williams: Greater unity among disparately located political progressives around the issues of work and family. Yet each participant suggests a slightly different means to that end according to her or his particular take on the predominant social dynamics at play.

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In fighting the current onslaught against vulnerable members of society—caregivers and those who need care—Professor Williams has honed her various powerful messages, often expressed through phrases succinctly conveying key aspects of her urgent vision for reform: “ideal worker,”<sup>44</sup> “one sick child away from being fired.”<sup>45</sup> Several of the authors amplify her concepts of “class migrant”<sup>46</sup> and “opt-out narrative.”<sup>47</sup> Others generate their own new terms,<sup>48</sup> perhaps inspired by Williams’s knack for coining a pithy expression. And still others bring enduring critical insights, including the stubborn intersection of racial dynamics with gender and class,<sup>49</sup> to bear on the complex issues explored in the book. Williams herself abbreviates and reiterates key arguments first rehearsed elsewhere, including the concepts of the “maternal wall”<sup>50</sup> or “reconstructive feminism.”<sup>51</sup> Through her powerful analytical frameworks and

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44. WILLIAMS, UNBENDING GENDER, *supra* note 6, at 1; WILLIAMS, RESHAPING THE DEBATE, *supra* note 2, at 80–83.

45. WILLIAMS, RESHAPING THE DEBATE, *supra* note 2, at 42–76 (Chapter 2, “One Sick Child Away from Being Fired”).

46. Kessler, *supra* note 21, at 697; Pruitt, *supra* note 35, at 769.

47. Burkstrand-Reid, *supra* note 18, at 665; Levit, *supra* note 32, at 752, 764.

48. McGinley, *supra* note 24, at 704 (“progressive professionals”); Ramachandran, *supra* note 27, at 730 (“gender or family nonconformity”); Silbaugh, *supra* note 30, at 735 (“‘covering’ strategy for men”).

49. Chang, *supra* note 41, at 828–30; Delgado, *supra* note 42, at 837–42; Stefancic, *supra* note 39, at 823.

50. WILLIAMS, RESHAPING THE DEBATE, *supra* note 2, at 92–93 (showing that gender bias based on parenthood status, specifically motherhood, is the biggest component of sex discrimination).

51. *Id.* at 126–29 (positing that within the sameness/difference feminist theory debate, women’s differences are not “real” but rather are measured against unexamined masculine norms); *id.* at 149 (describing how reconstructive feminism sees gender differences as constructed “by reference to



apt turns of phrase, she urges a practical political implementation of these proposals both *here* (in the United States) and *now* (as we approach another presidential election year during a historic economic attack on families).<sup>52</sup> If one of the core strengths of the United States has been the existence of broad middle and working classes, Williams's renewed focus on the endangered species of her so-called "Missing Middle" is timely.<sup>53</sup> Along with her new attention to masculine norms, *Reshaping the Work-Family Debate* is the culmination of years of unstinting legal and theoretical pursuit of reform in this area.<sup>54</sup> The book's deliberately accessible style is clearly intended to appeal not only to academics in areas other than law, but also to today's policy-makers and political strategists.

The scholarly crowdsourcing in this Colloquy is a tribute to Professor Williams's enduring framing skills and her resulting stature in this policy space. And for members of this law school with its twin pillars of academic excellence and education for justice, it is an honor to host this group of thoughtful reactions to Professor Joan C. Williams's extraordinarily influential voice in the work-family debate.

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unstated masculine norms that make women's differences seem to carry weighty explanatory power.").

52. Bob Herbert, *Absorbing the Pain*, N.Y. TIMES, February 26, 2011, at A19, available at [http://www.nytimes.com/2011/02/26/opinion/26herbert.html?\\_r=1&nl=todaysheadlines&emc=th21](http://www.nytimes.com/2011/02/26/opinion/26herbert.html?_r=1&nl=todaysheadlines&emc=th21). Current economic trends in the United States bring to mind Anatole France's famous saying: "The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread." Anatole France, THE RED LILY 95 (Winifred Stephens trans., 1927) (1894).

53. WILLIAMS, UNBENDING GENDER, *supra* note 6, at 144–76 (Chapter 5, "How Domesticity's Gender Wars Take on Elements of Class and Race Conflict").

54. *See id.* at 208–09, 219–22; *see also* Chang, *supra* note 41, at 825 n.1 (citing "representative pieces [of Professor Williams's] sustained scholarly engagement"). Professor Williams also informed me that LILLIAN B. RUBIN, *WORLDS OF PAIN: LIFE IN THE WORKING CLASS FAMILY* (1976), was hugely inspirational to her.