DIRTY HARRY MEETS DIRTY DIAPERS: MASCULINITIES, AT-HOME FATHERS, AND MAKING THE LAW WORK FOR FAMILIES

Beth A. Burkstrand-Reid

Available at: https://works.bepress.com/beth_burkstrand_reid/6/
DIRTY HARRY MEETS DIRTY DIAPERS: 
MASCULINITIES, AT-HOME FATHERS, 
AND MAKING THE LAW WORK FOR FAMILIES

Beth A. Burkstrand-Reid*

INTRODUCTION .............................................................................................. 2
I. Masculinities and At-Home Fathers ........................................................... 6
   A. Who’s the (At-Home) Man?: Identifying At-Home Fathers ......6
   B. From Masculine to Masculinities ................................................ 8
II. The Study ................................................................................................ 11
   A. Study Design.............................................................................. 12
   B. Results........................................................................................ 14
      1. Economic Indicators ............................................................ 16
      2. Caregiving and Work-Family Balance Indicators ..........18
III. Adaptive Masculinities in the At-Home Father Community ................. 20
   A. Breadwinner Adaptive Masculinity ........................................... 21
   B. Caregiving Adaptive Masculinity .............................................. 26
IV. Putting Adaptive Masculinities to Work ............................................... 29
   A. Adaptive Masculinities and the Family and Medical 
      Leave Act ................................................................................... 30
      1. Making the Current Leave Structure Paid .....................34
      2. Adding Paid Short-Term Leave .......................................36
      3. Expanding FMLA Coverage............................................38
   B. The Dangers of Applying Adaptive Masculinities to the 
      Law .........................................................................................39
   C. Study Limitations .....................................................................40
CONCLUSION ................................................................................................ 43

*Assistant Professor, University of Nebraska College of Law; J.D., American University 
Washington College of Law; B.A., Emory University. Many thanks to Jamie R. Abrams, 
June Carbone, Nancy E. Dowd, Jason Eiker-Wiles, Laura T. Kessler, Nancy Levit, Michelle 
K. Leutzinger, Richard Moberly, Brian Reid, Jennifer K. Robbennolt, Aaron B. Rochlen, 
Steven L. Willborn, Joan C. Williams, Robin Fretwell Wilson, and Sandra B. Zellmer for 
their comments on this project; to research assistants Cassandra M. Dorr, April I. 
Kirkendall, and Laura Arp; and to Mike Zweifel of the Nebraska Evaluation and Research 
Center at the University of Nebraska-Lincoln. The author is a former journalist and her 
husband was a self-described at-home father, an arrangement they have discussed in the 
media.
Who is the “man”? Implicit in this question is whether the man at issue demonstrates traits traditionally associated with masculinity: traits such as power, rejecting all things associated with being female, aggression, and being the family breadwinner. If a man, then, abandons paid work and stays at home full time with his children, is he still a “man” as typically defined? The answer to this question bears both on whether families are truly evolving away from the traditional, gendered construct that places men as family breadwinners and women as caregivers and whether work-family balance law meets the needs of these—and all—families.

This Article analyzes 425 media stories about at-home fathers written over an eight-year period. Specifically, it looks at whether these fathers accept or reject socially constructed notions of masculinity. The results suggest that some at-home fathers adapt their behavior in ways that allow them to function as primary caregivers while keeping their masculinity intact. As masculinity appears to be salient even to gender-subversive fathers, understanding these adaptive strategies is important to making work-family balance law more responsive to all fathers.

INTRODUCTION

Men’s job losses are women’s employment gains, or so some media suggest. During the recent recession, women lost fewer jobs and earned more advanced degrees than men; many women are not only making breakfast, as they traditionally did, but are now paying for it too. But these changes are not without costs: for example, women suffer from tremendous work-family balance-related stress. Enter the stay-at-home father. A


significant number of men are staying at home with their children—nearly two million, according to one demographer. These men, who are primarily responsible for diaper changing, bottle washing, and child-related comings and goings, face a pressure of their own: to prove that in spite of their caregiver role, they are “real” men. Caregiving, after all, is not masculine.

Men are central in the law and, therefore, so is masculinity. In no area of law is masculinity—and gender more generally—more significant than in family law. In family law, acceptance or rejection of gendered family roles can impact individual legal rights.

Like all men, fathers are expected to demonstrate “hegemonic masculinity,” a dominant, socially constructed masculinity defined by economic supremacy, physical power, and rejection of all things related to femininity and homosexuality. Hegemonic masculinity is obvious: we know it when we see it. At-home fathers, with their public caregiving and rejection of the primary breadwinner role, ostensibly reject gender roles traditionally seen in the family. But this Article suggests that these men may demonstrate elements of hegemonic masculinity even as they reject it by being at-home fathers. Therefore, at-home fathers may be “actively

home dad arrangement allows the mother to work without having to use a daycare or a nanny. This arrangement prevents the mother from having to deal with the stress of finding acceptable childcare, checking backgrounds, and paying for care. This arrangement also can help ensure that the family's values are being upheld and instilled in the children. Free from the stress of childcare, the working mother is able to actively pursue their career. This allows for a more relaxed working environment for the mother and allows her to focus on her career.”).

3. See Yen, supra note 1.


5. Masculinities have been embodied in family law at least since the time of coverture, Joanna L. Grossman & Lawrence M. Friedman, Inside the Castle: Law and the Family in 20th Century America 58–60 (2011).


7. When this Article refers to “masculinity” in the singular, it refers to hegemonic masculinity or attributes of hegemonic masculinity, unless otherwise noted.


reconstructing masculinities to include aspects of traditional feminine characteristics," or they may be complicit in maintaining hegemonic masculinity by adapting it rather than challenging it head on. The significance of masculinity in these purportedly gender-bending men has important ramifications for the success of work-family balance laws, such as the Family and Medical Leave Act (FMLA). If at-home fathers face masculinity constraints while challenging gender norms, so too must working fathers, who must also visibly reject gender norms to take family leave. At-home fathers are “canaries in the coal mine”: their rejection of certain masculine norms is quite clear. By examining at-home fathers, we can better understand how masculinities impact the work-family balance decisions of all fathers. “The experiences of these men provide important implications for the workplace” including, for example, how both men and women are disadvantaged by the structure of the workplace today.

Today, dual-income families are common, as are families in which women are the primary or sole breadwinners. Legal and policy efforts aim to get men “involved” in parenting, not just paying the bills. Thus, men may now be feeling the pinch of work-family balance pressures more than ever, regardless of whether they act as sole breadwinner, sole caregiver, or a combination of the two. For this reason, now may be the optimal time to fully engage both women and men in efforts to reform work-family balance law. As Nancy Dowd said, “If the goal of law and policy is greater father involvement in care, and if masculinity norms are in

10. See Doucet, supra note 8, at 237.
11. See id. at 237–38.
14. Id. at 4.
16. In 2008 there were almost 34 million families in which both the husband and the wife earned; in 3.4 million families the wife was the sole earner. See Women in the Labor Force, supra note 1, at 75. See also Hanna Rosin, Who Wears the Pants in This Economy?, N.Y. TIMES (Aug. 30, 2012), http://www.nytimes.com/2012/09/02/magazine/who-wears-the-pants-in-this-economy.html?pagewanted=all; PAUL R. AMATO ET AL., ALONE TOGETHER: HOW MARRIAGE IN AMERICA IS CHANGING 140–74 (2007).
conflict with care, then examining the patterns of nurturing fathers is important for policy.\textsuperscript{19}

This Article analyzes 425 media stories about at-home fathers published or broadcast over an eight-year period. Specifically, it looks for thirty-one masculinity-related indicators in each story as a means of questioning whether the men we might assume to be the most gender-subversive—at-home fathers—truly reject dominant notions of masculinity present in society today. This Article suggests that some at-home fathers either consciously or subconsciously adapt their behavior in ways that preserve their masculinity while caregiving. It further suggests these adaptations provide insight into why taking leave under laws such as the FMLA may not appeal to all men.

Part I of this Article outlines two issues central to the study of at-home fathers: first, it describes the demographics of the at-home father community, and second, it provides an overview of masculinities literature.\textsuperscript{20} Part II describes the present study, including the methodology and findings. Part III discusses implications suggested by the findings. The Article describes two ways at-home fathers appear to maintain or redefine masculinity: “breadwinner adaptive masculinity,” which addresses the loss of status at-home fathers may face when they are no longer the primary family breadwinner; and “caregiving adaptive masculinity,” which allows these fathers to reframe caregiving in a way that more closely comports with hegemonic masculinity norms.\textsuperscript{21} Part IV shows how the insights gained from at-home fathers can be used to better understand why men often do not take advantage of work-family balance laws, specifically the FMLA. Finally, this section notes the limitations of the study.

Ultimately, this Article concludes that families with at-home fathers may signify a modest shift toward a less-gendered family structure. However, gender in general—and masculinities in particular—is still salient, even in these families. At-home fathers (as presented by the media) simultaneously preserve, recast, and augment aspects of masculinity in ways that address the pervasive gender stereotyping that men—especially male caregivers—face.\textsuperscript{22} In other words, they adapt their actions to conform to societal dictates regarding masculinities. But such adaptations may not be possible for men seeking leave under the FMLA.\textsuperscript{23} Thus, the

\textsuperscript{19} Nancy E. Dowd, The Man Question: Male Subordination and Privilege 112 (2010) [hereinafter The Man Question].

\textsuperscript{20} Ann C. McGinley, Work, Caregiving, and Masculinities, 34 Seattle U. L. Rev. 703, 706 (2011) (noting that the plural “masculinities” is used to show that there is more than one type of masculinity depending upon on social context).

\textsuperscript{21} These are but two types of adaptive masculinities that appear to be present in at-home fathers; there are likely more. Id.

\textsuperscript{22} The Man Question, supra note 19, at 114.

\textsuperscript{23} See infra, Part IV.A.
FMLA is doomed to fail many men until it is replaced or reformed.

I. Masculinities and At-Home Fathers

Neither the phrase “at-home father” nor the term “masculinity” has an unambiguous definition. These descriptors are central to this Article, both in how the quantitative study was designed and executed as well as to how the results were analyzed. It is worthwhile, then, to briefly examine who are at-home fathers and what defines masculinity.

A. Who’s the (At-Home) Man?: Identifying At-Home Fathers

“Many at-home fathers also provide some income to the family by working an evening shift full-time or working from home part-time or doing odd jobs when it works into the family’s schedule. These men may identify themselves by these careers, but, if they are with their children during most days, they are at-home dads.”

—The online organization, National At-Home Dad Network

Who is an at-home father? The answer to that question is more complex than one might think. The definition of the term varies: some reserve the at-home father moniker for men neither making money nor looking for a job, while others simply accept a man’s self-definition. Whether fathers fit (or do not fit) into various definitions of “at-home father” significantly impacts estimates of how many at-home fathers there are in the United States.

The number of at-home fathers is small, but how small, relative to the total number of fathers, is an open question. One study, for example, estimates that in about one in every five families with an at-home parent, the at-home parent is the father. The most recent U.S. Census Bureau estimate, however, identifies only 176,000 men as at-home fathers. This statistic, and likely others, excludes relevant populations of men. The Census Bureau’s numbers do not appear to include single, gay, divorced, or cohabitating fathers, or fathers without children younger than fifteen years


26. See Yen, supra note 1.

of age. These are some of the many reasons why, according to one researcher, the Census Bureau underestimates the number of at-home fathers by as many as 1.4 million.

In addition to the exclusion of fathers listed above, the differences between estimates of the number of at-home fathers center on two core questions, both of which are highly relevant to this Article. First, does a father have to be out of the paid workforce entirely to be counted as an at-home father? Second, if an at-home father is looking for paid work and thus intends to be home only temporarily, does that exclude him from being “at home”? Depending upon whether one counts men who work part time, are at home temporarily, or are looking for paid work, the estimated number of at-home fathers nationwide may change dramatically.

The Census Bureau defines an at-home father as one who is “not in the labor force” for fifty-two weeks of the prior year and who is “caring for family” while his spouse works, which excludes fathers who are looking for paid work or changing careers. This is a large number of men: thirty-seven percent of at-home fathers were between jobs or careers, according to one survey. The Census Bureau’s definition also excludes fathers laid off or who lost their job within the past year. For example, a laid-off factory worker caring for three children and simultaneously looking for employment while his wife works would not be considered an at-home father. Neither would the same man doing shift work to facilitate childcare. The Census Bureau would define these men as breadwinners, even when they perform the bulk of the caregiving.


30. U.S. CENSUS BUREAU, supra note 28. At-home fathers must have children under fifteen. Id. See also Labor Force Statistics from the Current Population Survey: How the Government Measures Unemployment, BUREAU OF LABOR STATISTICS, available at http://www.bls.gov/cps/cps_htgm.htm#nilf (last modified Oct. 16, 2009) (“The labor force is made up of the employed and the unemployed. The remainder—those who have no job and are not looking for one—are counted as ‘not in the labor force’. . . . Family responsibilities keep others out of the labor force.”). This also excludes men who are the primary caregivers for their children because they work non-traditional schedules (e.g., health care workers and firefighters, among others). See Martin H. Malin, Fathers and Parental Leave Revisited, 19 N. ILL. U. L. REV. 25, 35 (1998).

31. DOUCET, supra note 8, at 90.

32. See supra note 30. Moreover, at least one study on at-home fathers limited participants to men who had “voluntarily” decided to stay at home, did not work for pay outside of the home for a “major proportion of their time,” and whose wives were the primary breadwinners. John M. Robertson & Cia Verschelden, 1 J. MEN’S STUD. 383, 384 (1993).

33. See The Politics of Care, supra note 6, at 183–85 (discussing the treatment of men as “inauthentic caregivers”).
Opting not to count such men ignores the economic and work-family balance realities many families face. This was recognized in a recent New York Times article, for which the Census Bureau recalculated the number of at-home fathers to include men who have part-time work but are still the primary caretaker of children under fifteen years of age while their wives work; the recalculation more than triples the number of at-home fathers, from the original Census Bureau calculation of 176,000 men to 626,000.34

The impact of undercounting at-home fathers goes beyond numbers. The Census Bureau’s definition of an at-home father creates an artificial division between fathers engaged in paid work and those who are not—even when both are the primary caregivers in their families. By excluding at-home fathers who maintain ties to the paid labor force, and defining them as paid workers, the Census Bureau is effectively saying their caregiving does not count.35

An inclusive definition of “at-home father” conveys how men themselves define their role and thus impacts the masculinities that man is expected to display. As such, if a man self-identifies as an at-home father or is so identified by the media, this Article accepts that label as accurate.

B. From Masculine to Masculinities

“Dirty Harry is macho . . . He’s a badass on a mission to right the wrongs of the world. Dads, particularly stay-at-home dads, are the same way. . . . We will dive through brick walls—and endure being called ‘sissies’—to care for our kids in a way that makes up for time lost in prior generations. . . . To those guys who stay home to raise their kids: You are lucky, macho men. The dad at the playground . . . can stand tall and do his thing, playing with his kid in a manly way, because it is cool to be a dad.”

—A father who stayed at home for 18 months36

Action stars, bodybuilders, and the piercing stares of male models: these are masculine by today’s standards.37 President Barack Obama’s

35. Latshaw, supra note 29, at 145–46.
political power may signal masculinity, as might Donald Trump’s vast fortune or Bill Gates’ technical prowess.38 These men are arguably more masculine than many other men. Masculinities may be positive expressions of authority and virility, but they can also have negative connotations.39 We may associate masculinity with violence, such as rape; the objectification of women, as in pornography; or even gay bashing. So which of these images represent the true essence of masculinity?40 The answer is all, some, or even none of them, depending upon the man and the context.41 Like defining “at-home father,” defining “masculinity” is complex but crucial when examining how fathers interact with work-family balance law.

Recognizing masculinity’s complexity is not to say that its characteristics are not identifiable. Masculinities scholarship suggests the following:

- **Social Construct:** Masculinity is socially constructed.42 As such, masculinity is constantly in flux.43 Masculinities are both seen and proven via interactions between men and society.44

- **Masculinity is not singular:** There is no one type of masculinity that is universal, hence the plural, “masculinities.”45 What is “masculine” is contextual and intersects with other attributes such as race, geography,
socioeconomic status, and social contexts; it may also change over time.46

Hegemony and Hierarchies: Although there are multiple masculinities, certain aspects of masculinity are so dominant and honored by society they are considered “hegemonic.”47 Men who express hegemonic masculinity have higher status among other men.48 Regardless of where an individual man is on the masculinities ladder, a man must continually prove he is a man; masculinity is continually earned.49

Opposition: Masculinity is characterized by opposition to femininity and homosexuality.50 Opposition to femininity typically means opposition to caregiving: men are expected to be the “breadwinner,” to the exclusion of providing care.51

Violence: Masculinity may be characterized by exhibitions of violence and aggression.52

Subordination: Masculinity both benefits and harms men; although men have privilege, men may be subordinated to other men if they fail to conform to gender norms.53 “Men pay a price for privilege,” according to Dowd.54 This is particularly so when men buck societal norms dictating that their role is to provide financially for their family, not to care for their children.55

Fatherhood—and at-home fatherhood, specifically—presents a unique set of issues to masculinities scholars because of its relationship to both the

47. MASCULINITIES, supra note 37, at 78–81; THE MEN AND THE BOYS, supra note 45, at 10–11.
48. THE MEN AND THE BOYS, supra note 45, at 10–11; MICHAEL KIMMEL, MANHOOD IN AMERICA: A CULTURAL HISTORY 4 (2012); Cheng, supra note 37, at 297 (noting that even if few men may have hegemonic characteristics, many men “are complicit in sustaining the hegemonic model.”).
49. REDEFINING FATHERHOOD, supra note 4, at 182.
51. REDEFINING FATHERHOOD, supra note 4, at 183; Brooks & Gilbert, supra note 4, at 266.
52. Cohen, supra note 50, at 532–35; Brooks & Gilbert, supra note 4, at 267.
55. THE MAN QUESTION, supra note 19, at 105.
feminine caregiving and masculine breadwinning mandates. Caregiving by men threatens to upset masculine norms that push men to reject stereotypically feminine things. Fathers can reject dominant masculine norms at great threat to their social status, or they can embrace hegemonic masculinity, potentially at great cost to their relationships within the family: fathers face gender double-binds, just as mothers do. Fathers, then, increasingly must walk a tightrope of trying to preserve their masculinity and protect their ability to caregive.

II. The Study

Work-family balance issues have prompted both voluntary and legally binding employment and family law reform, but these responses are few and inadequate. Men are often marginalized or ignored in the work-family balance debate. The primary federal law that seeks to address work-family balance, the FMLA, is an anemic response to work-family balance pressures faced by Americans, regardless of sex.

Why study a small subset of parents—at-home fathers—who are presumably not even covered by the FMLA as a way to understand the deficiencies of (and strategies for improving) that law? Because at-home

57. THE MAN QUESTION, supra note 19, at 105.
58. REESER, supra note 8, at 7–8; Kevin Alexander Boon, Heroes, Metanarratives, and the Paradox of Masculinity in Contemporary Western Culture, 13 J. MEN’S STUD. 301, 309–10 (2005).
60. Men may be inadequately considered in feminist legal theory more generally. Feminism for Men, supra note 41, at 1038.
fathers have found ways to adapt to masculinities expectations while being caregivers. Men considering family leave might be able to use these same strategies—if doing so is possible under the FMLA—thereby boosting the number of men taking leave to caregive. Both at-home fathers and employed fathers considering family leave face the following question from society: if a man leaves paid work to care for his children, is he a “man” as typically defined? As we will see, the adaptations employed by at-home fathers are difficult to apply to the FMLA. Thus, the masculinity of men contemplating FMLA leave may be questioned, risking their position on the masculinities hierarchy.

A. Study Design

In the fall of 2010, data was collected from a search of the Westlaw USNEWS database, which includes news from a variety of U.S. sources, including newspapers, magazines, journals, newsletters, transcripts, and newswires. The search yielded 425 articles from geographically diverse media sources. Each story was coded for thirty-one indicators relevant to masculinity and femininity that were derived from law and social science research. The study resulted in a total of 13,175 cells of data.
The data was assessed for the presence of several indicators that law and social science research suggest are indicative of hegemonic masculinity: maintaining paid work while staying at home, saying that caregiving status is temporary, participating in at-home fathers’ groups, participating in activities related to aggression or stereotypically “male” hobbies, rejecting “female” household labor, accepting “male” household labor, referring to at-home fathers as sex objects, self-identifying as the leader or decision-maker, referencing a father’s role in sculpting children’s gender perceptions at home, defending masculinity overtly, and expressing hostility toward homosexuality. All of the ways in which at-home fathers may express masculinity cannot be tested, of course. Thus, the information gleaned from this study is necessarily incomplete and can only produce hypotheses regarding masculinities and at-home fathers, not definitive conclusions. However, the large number of stories analyzed provides a solid basis for the masculinities-related hypotheses suggested below.

The presence of the following indicators was characterized as oppositional to hegemonic masculinity: staying at home to spend more time


65. Each of two law students coded the first twenty-four articles in the dataset. After refining category descriptions, inter-coder reliability for those twenty-four stories was ultimately 93.7 percent.

66. See infra note 68; supra note 64.
with children; staying at home to support a wife’s earning power; staying at home because someone “should” be at home with children; staying at home because of workplace inflexibility; fathers being treated as status symbols; fathers being called “Mr. Mom”; fathers being rejected by women, or on the basis of the father’s gender role; and accepting stereotypically “female” household labor.67

This Article also examines the primary reason why an at-home father assumes his role. Economic motivators include a father losing his job, staying home in support of his wife’s earning capacity, and the cost of childcare.68 Caregiving motivators—traditionally associated with mothers’ reasons for staying at home—include a father wanting more time with his children, feeling that someone “should” be at home, and problems with workplace inflexibility. This Article assesses the “masculine” and “feminine” characterizations of different rationales for staying home in the context of the gendered, breadwinner-caretaker dyad family structure.

This study can be seen in two different ways (or as a combination of both). First, it may describe how the media depicts at-home fathers. Second, it may describe how at-home fathers present themselves to society. It is impossible to disaggregate these views without interviewing each journalist and each at-home father who participated in each article. For this reason and others, this study is an imperfect window into at-home fathers’ lives. For now, media coverage is one of the only available large-scale sources of information on these men. Though the limitations of the study must be acknowledged, the information on masculinities it provides can augment observational and small-scale, survey-based and interview-based analyses by other scholars.69

B. Results

“I do have to beware of estrogen poisoning. I have to make time to go ride my bike and watch football.”

67. These characteristics are arguably the inverse of several masculinities indicators. See infra text accompanying note 68. See also Frank Newport, Wives Still Do Laundry, Men Do Yard Work: Husbands and Wives View the Household Division of Labor Differently, GALLUP (Apr. 4, 2008), http://www.gallup.com/poll/106249/wives-still-laundry-men-yard-work.aspx (discussing that women do the majority of paying bills, washing dishes, grocery shopping, cooking, laundry, caring for children on a daily basis, house cleaning, and making home decorating decisions. Men are more likely to perform car maintenance, yard work, and make investment decisions. When the wife’s responses are compared to the husband’s, both “often appear to perceive who does what in the household differently”).

68. Whether staying at home to support a wife’s income is a masculine or feminine trait is arguable. This study categorizes it as a masculinity indicator because the motivation to stay at home is economic rather than caretaking-based. In addition, the decision to stay at home is not based on inherent assumptions about gender.

69. See infra Part IV.B–C.
Masculinity is salient in the lives of at-home fathers: almost seven out of ten stories contained indicators of hegemonic masculinity. This assertion—as well as other meaningful findings in this study—is supported by social science literature.

This study suggests the following hypotheses. First, some fathers are motivated to stay home by financial concerns, not necessarily a desire to be the primary caregiver. Second, at-home fathers may compensate for their socially constructed “feminine” actions by engaging in other, traditionally masculine activities. Third, at-home fathers may redefine what it means to “be a man” to fit into notions of hegemonic masculinity. These actions are accomplished in part by what this Article refers to as “veiling,” the obfuscation of a man’s caretaking responsibilities or his acceptance or rejection of gender roles.

70. Anne Fitten Glenn, Move Over Mommy, It’s Dad’s Turn, MOUNTAIN XPRESS (March 24, 2009), http://www.mountainx.com/article/22270/Move-over-mommy-its-dads-turn.

71. Of the 425 stories analyzed in this study, 294 included at least one mention of the fourteen traits associated with hegemonic masculinity. The study found 122 stories had one masculinity indicator, ninety-six had two such indicators, fifty-four had three, nineteen had four, one had five, one had six, and one had seven.

72. See generally DOUCET, supra note 8; Laura Merla, Determinants, Costs, and Meanings of Belgian Stay-At-Home Fathers: An International Comparison, 6 FATHERING 113 (2008); “I’m Just Providing for My Family”, supra note 56; Reasons for Entering the Role, supra note 64.

73. See discussion infra Part III.

74. Stories that included an at-home father expressing a stereotypically feminine quality were three times more likely than the overall sample to also discuss masculine qualities. This logistic regression, analyzing whether feminization indicators predict mentions of hegemonic masculinity, had a significance predictor of less than .001 with a log odds ratio of 3.021. This finding may suggest that individual men who express typically feminine qualities, such as caregiving motivations for staying at home, are more likely than other men to also express attributes of hegemonic masculinity. Or, given the source and analysis of data, it may suggest that stories that discuss femininity (as opposed to individual men) are more likely to also include masculinity because gender, more generally, is seen as important. Either way, the data suggest that masculinity is significant in the at-home father community.

75. Through this adaptation, at-home fathers may actually be maintaining or reinforcing masculinities hierarchies. See, e.g., DOUCET, supra note 8, at 203; Ronald F. Levant, Toward the Reconstruction of Masculinity, in A NEW PSYCHOLOGY OF MEN 229–48 (Ronald F. Levant & William S. Pollack eds., 1995) [hereinafter Reconstruction of Masculinity]; MASCULINITIES, supra note 37, at 120–142; “I’m Just Providing for My Family”, supra note 56, at 8.

76. The concept of veiling is not new. It is seen in many areas of research, including law. See, e.g., Barbara Allen Babcock, A Place in the Palladium: Women’s Rights and Jury Service, 61 U. CIN. L. REV. 1139, 1149 (1992) (saying restrictions on jury strikes “may
1. Economic Indicators

Money, if news accounts are accurate, motivates many men’s move to caregiving; it impacts how they act once there, whether they accept their new role, and, ultimately, how society relates to them.77 Twice as many stories in this study included men who said they were at home because they lost their job (fourteen percent) than included fathers who said they were at home because they desired more time with their children (seven percent). Job loss was not the only economic issue cited by men at home: more than twelve percent of stories included men who said childcare was too expensive and, strikingly, more than one-quarter of the stories featured men who said they were at home because their wives had superior earning potential.78

Once at home, at-home fathers may maintain their breadwinning role


77. The significance of economic factors to at-home-father-family decision-making is supported in psychological literature. See, e.g., Reasons for Entering the Role, supra note 64, at 282–83; Toni Schindler Zimmerman, Marital Equality and Satisfaction in Stay-At-Home Mother and Stay-At-Home Father Families, 22 CONT. FAM. THERAPY 337, 344 (2000). One study described the reasons men stayed at home as driven by external circumstances. “I’m Just Providing for My Family”, supra note 56, at 10. See also Tom Peculski, What Some of South Jersey’s Stay-At-Home Dads Say About Their Roles, COURIER-POST, June 18, 2006, available at 2006 WLNR 25493443 (“I’m actually looking forward to going to work. . . . I think it's just a man thing. . . . It's been a sacrifice staying at home.”).

78. Carlos Alcala, More Fathers Choosing to Stay Home with Kids After Job Losses, SAN MATEO COUNTY TIMES, June 23, 2010, available at 2010 WLNR 12672976 (“The job that I had, we just lost the funding for it. . . . My wife makes more money than I did, so it just made sense.”). See also Reasons for Entering the Role, supra note 64, at 281–83. This is an interesting contrast with Lisa Belkin’s story, “The Opt-Out Revolution” and stories that followed, which largely portrayed women as motivated by caregiving rationales. See generally Beth A. Burkstrand-Reid, “Trophy Husbands” & “Opt-Out” Moms, 34 SEATTLE U. L. REV. 663 (2011) (analyzing early media representations of at-home fathers and mothers).
by working part time. In twenty-seven percent of stories, at least one at-home father maintained some measure of paid employment. 79 Certainly, some men must work part time for financial reasons: a dual income is all but required in many families today. 80 However, stories including men who said they stayed at home to support their wives’ earning potential were seventy percent more likely than other stories in the overall dataset to also include men who maintained some type of paid work. This suggests that masculinity may be especially significant for men whose wives are upwardly mobile. 81

Regardless of why they are at home, many of the men featured in news accounts report feeling stigmatized by society. 82 More than twenty-four percent of stories included men who reported facing societal rejection based on their family role. 83 Almost eleven percent of stories reported that women, specifically, were the culprits. 84 More than twenty-three percent of stories used the phrase “Mr. Mom,” either regarding a specific father or at-home fathers generally, a reference to an at-home buffoon of a father featured in a 1980s movie comedy of the same name. 85 Stigma may be one reason why twenty-seven percent of stories about at-home fathers mentioned paid work—thus allowing men to self-identify with their paid employment—and why fourteen percent featured men who said their at-home role is only temporary. 86 Stigma may also be why forty-one percent of the stories cited men who were involved in at-home fathers’ groups. 87

79. The relationship between at-home fathers and paid work is supported in sociological research. See, e.g., DOUCET, supra note 8, at 195.
81. Patrick Coughlin & Jay C. Wade, Masculine Ideology, Income Disparity, and Romantic Relationship Quality Among Men with Higher Earning Female Partners, 67 SEX ROLES 311, 311 (2012) (saying “men who were more traditional in their masculinity ideology and higher-earning female partners were more likely to have poor quality romantic relationships, in part because such men view the disparity in income as having importance.”).
82. Krista Jahnke, Fathertime: As Job Prospects Dwindle, the Number of Men Staying Home to Raise their Children Rises, NEW ORLEANS TIMES-PICAYUNE, Oct. 5, 2010, available at 2010 WLNR 19736099 (discussing a father who lost his job and had since been the family’s primary caregiver “but he’s not ready for the stay-at-home dad label yet”); Lot Tan, Stay-At-Home Dads, COLUMBUS DISPATCH, Oct. 2, 2010, available at 2010 WLNR 19589201 (quoting a father saying, “I think the thing that hurt the most was my ego, because I’d been the breadwinner.”).
83. In another study, sixty-five percent of at-home fathers reported feeling stigmatized by others but, at the same time, reported feeling “secure” in their family role. Working Therapeutically, supra note 64, at 214.
85. Working Therapeutically, supra note 64, at 213.
86. One study reported that at-home fathers were less likely to seek out other at-home parents than were at-home mothers. See Zimmerman, supra note 77, at 345. 87. Not all at-home fathers’ groups exclude women, but they often publicly self-
2. Caregiving and Work-Family Balance Indicators

Fewer stories discussed men who said they were at home because of a caretaking motivation as opposed to financial reasons. Less than seven percent of the stories analyzed included a man who said he was at home to spend more time with his children.\(^{88}\) Sixteen percent cited a father who said he was at home because at least one parent “should” be.\(^{89}\) This is not to suggest that men do not love their children or may not be at home at least in part because they want to provide care; this simply reflects a reason for staying at home that was articulated to and reported by the media.

Some stories present caregiving-motivated dads as more feminine overall. A story is twice as likely to discuss acceptance of “female” household labor when it discusses men who are home because of a caretaking rationale.\(^{90}\) Additionally, a disproportionate number of stories that include references to “Mr. Mom” also include a man accepting household tasks such as laundry and cooking: fifty-six percent of “Mr. Mom” stories include details on accepting “female” tasks, though only thirty-five percent of stories in the overall dataset mention men doing traditionally “female” labor.\(^{91}\)

Outside of the home, at-home fathers acting out of a caregiving motivation maintain some paid labor at a rate that is disproportionately high when compared to men at home for other reasons, according to the data.\(^{92}\) In the overall data set, twenty-seven percent of stories cited men who maintained paid work.\(^{93}\) However, in stories in which a dad is home to spend more time with his children, more than forty percent also discussed

---


89. This general proposition is supported by other research. \textit{Reasons for Entering the Role}, supra note 64, at 181–82.

90. This logistic regression, analyzing whether caregiving motivators predict the acceptance of female household labor, had a significance predictor of 0.002 with a log odds ratio of 2.058.

91. This behavior has also been noted in social science literature. See Merla, \textit{ supra} note 72, at 126. The Census Bureau recently calculated the number of at-home fathers for a \textit{New York Times} study: when the calculations included fathers who maintained part-time work, the number of at-home fathers increased from 176,000 to 626,000. \textit{Just Wait Until Your Mother Gets Home}, supra note 34.

92. \textit{See supra} note 79.

93. \textit{Id.}
an at-home father with paid work. Fifty-one percent of stories including a father saying he was at home because someone “should” be also included at least one father who maintained paid work. When a father cited workplace inflexibility as his reason for being at home, fifty-six percent of the stories included at least one mention of paid work. This may reflect either the fathers’ likelihood to engage in labor or the media’s likelihood to discuss it when fathers put their caregiving on display.94

This study also suggests that at-home fathers may not identify with the general “work-family balance” rhetoric used by legal reformers.95 Less than two percent of stories in this study included an at-home father who said, explicitly, that workplace inflexibility issues led to the decision to stay home. However, men identified numerous individual issues that arguably fall under the work-family balance rubric. More than one in three stories in this study referenced at least one factor suggesting a specific work-family balance issue contributed to a man’s decision: more than twelve percent said childcare costs led to the decision; more than twenty-six percent mentioned the necessity of supporting a higher-earning spouse; and sixteen percent said that someone “should” be at home. In other words, in theory, men may not identify individual reasons for being at home—such as having to be at home so a spouse can excel or childcare costs—as work-family balance issues, but these individual rationales are clearly related to work-family balance.96

Regardless of the primary reason a father says he is at home, many at-home fathers have three attributes in common. First, media accounts suggest that these men may feel stigmatized by society. Second, many at-home fathers join at-home fathers’ groups, which ostensibly exclude women and provide support to fathers. Third, many at-home fathers continue to earn money in some capacity while at home.

At its core, this study suggests that while caretaking responsibilities in at-home father families may be reversed, traditional gender expectations may still rule the proverbial roost. Men must still be men, which means

94. See Victoria L. Brescoll & Eric Luis Uhlmann, Attitudes Toward Traditional and Nontraditional Parents, 29 PSYCHOL. WOMEN Q. 436, 442 (2005) (stating that at-home parents may be blamed less for assuming an atypical gender role if external circumstances forced them to assume the role).

95. Given that this hypothesis is based directly on very specific word choices made by both reporters and at-home fathers, it is an issue that merits additional research. Certainly, work-family balance is identified by some fathers as a significant issue. See, e.g., John D. Duckworth & Patrice M. Buzzanell, Constructing Work-Life Balance and Fatherhood: Men’s Framing of the Meanings of Both Work and Family, 60 COMM. STUD. 558 (2009) (discussing how professional men address work-family balance conflict).

96. For extensive discussion of the importance of men to improving work-family balance law and policy, see generally RESHAPING THE WORK-FAMILY DEBATE, supra note 59.
they must be masculine. Masculinity is important even in non-traditional families. This suggests that some at-home fathers, who are portrayed as poised on the front line of gender reform, may actually be complicit in maintaining masculinities-based hierarchies, sustaining them by adapting these masculinities to their circumstances instead of rejecting them outright.97

III. Adaptive Masculinities in the At-Home Father Community

As previously discussed, there is no single way of being “masculine.” What is “masculine” changes depending upon the context in which masculinity is viewed or performed.98 The remainder of this Article suggests that some at-home fathers appear to have developed or adapted new masculinities to allow them to be at-home fathers while maintaining attributes of masculinity demanded by society.99 Gender roles are so entrenched that these men may try to simultaneously thwart and maintain a socially constructed notion of manhood.100

The adaptive masculinities identified in the present study are undoubtedly only a few of many types of masculinities exhibited by at-home fathers.101 The adaptive masculinities discussed below, however, are readily identifiable in the stories on at-home fathers examined for this study. This Article describes two models of masculinity within the at-home father structure that appear in media coverage: breadwinner adaptive masculinity and caregiving adaptive masculinity.102 Both of these adaptations appear to retain certain aspects of hegemonic masculinity but reject or augment others.
A. Breadwinner Adaptive Masculinity

“I think the thing that hurt the most was my ego, because I’d been the breadwinner.”

—A man who lost his job prior to becoming an at-home father

When a man is the primary caregiver, the core of his masculinity is threatened by the oppositional relationship between the gendered family concept that casts men as breadwinners and women as caregivers; he rejects this construct—at least outwardly—at great risk to his masculinity. As a result, at-home fathers who wish to preserve their masculinity may maintain breadwinner status by engaging in limited, paid work or by redefining what it means to be a “provider.” Both actions allow at-home fathers to act as the primary caregiver, while compensating for taking on that “female” role, by preserving a key element of masculinity: wage earning. This Article calls such actions “breadwinner adaptive masculinity.” As will be discussed below, the presence of breadwinner adaptive masculinity can inform efforts at work-family law reform, as it suggests that some men may be enticed to care give if they can partially preserve their breadwinning status in their family and in the eyes of society.

“Bring home the bacon”: no social construct bears more power over men than the expectation that they serve as the family breadwinner. As Michael Kimmel says, “Women’s emergence as primary breadwinner is a seismic shift, shaking men’s identity to its foundation.”

103. Tan, supra note 82.
104. See Hochschild, supra note 2, at 132. Male primary caregivers retain paid work at a high rate. Lynda L. Laughlin, Who’s Minding the Kids? Child Care Arrangements: Spring 2005/Summer 2006, U.S. Census Bureau, http://www.census.gov/prod/2010pubs/p70-121.pdf. According to the Census Bureau, about seven percent of preschool children are cared for by an employed mother, while about twenty-five percent of preschoolers in households with an employed mother are cared for primarily by their father. Id. These fathers are not exclusively out of the workforce: seventeen percent of employed fathers with an employed wife are primary caregivers. Id.
105. See, e.g., Kathleen Gerson, No Man’s Land: Men’s Changing Commitments to Family and Work 259 (1993) (“If men no longer share a distinctive identity based on their economic role as family providers, then what is a man?”); Jane McBride, Stay-At-Home Fathers Face a Unique Problem: Some Men Can’t Relate, Beaumont Enterprise, June 15, 2008, available at 2008 WLNR 11300645, (“Men who are accustomed to being the primary breadwinner face a possible loss of identity and social isolation.”).
106. Kimmel, supra note 48, at 288. See also Amanda Greene, Changing Roles Mean Fatherhood Isn’t What It Used To Be, Star-News, June 21, 2009, available at 2009 WLNR 11861411 (stay-at-home father saying, “For my dad, it has been a huge leap of faith watching me be at home for three years. He worried that I wasn’t providing for my family.”); Tough Times Leave More Dads at Home to Become Mr. Mom, News-Press, Aug. 14, 2009 (“Dennis, who used to work [fifty]-hour weeks as a human rights attorney, said a stigma is still associated with being a stay-at-home father. He said a lot of people think he’s
consequences of violating this mandate can be dire.\textsuperscript{107}

Media coverage suggests that, in some families, finances, not paternal pull, are more likely to explain why fathers are at home.\textsuperscript{108} This emphasis on family economics as a reason for staying at home is significant, as will be discussed later, in that it undercuts the notion that the mere presence of an at-home father signifies a shift away from gendered family roles.\textsuperscript{109}

Once a father decides to stay at home, pressure to be a breadwinner continues. Despite the fact that fathers may be economically compelled to be at home (through job loss, for example), or may be maximizing family income by being at home (to support their wives’ superior career growth, for example), men may still feel pressured to prove their masculinity to other men: “Some people will come right out and tell you that you really should be out there bringing in some money. After all, that’s what guys are supposed to do, right?”\textsuperscript{110} Loss of their breadwinner role may lead to anxiety and even isolation based on their gender nonconformity.\textsuperscript{111} In the words of an at-home father: “If I’m a man and I’m not earning a living, I’m not being productive in the traditional way, I may feel that people look down on me. Other men may look at what I’m doing. You’re a stay-at-home what? And that’s hard, unless you are very secure within yourself.”\textsuperscript{112}

At-home fathers have, in theory, rejected the breadwinner role, and therefore their masculinity is questionable—even, perhaps, to their wives. As one wife said, “[I]f someone had told us when we were courting that I’d one day be the breadwinner, and my husband was going to be a stay-at-home dad, we would have balked.”\textsuperscript{113}


\textsuperscript{108} See infra note 114 and accompanying text.

\textsuperscript{109} The number of at-home father families may ebb and flow with the economy. This is certainly suggested by the media. See, e.g., Jahnke, supra note 82.


\textsuperscript{111} See Zimmerman, supra note 77, at 343.


\textsuperscript{113} Matlack & Munson, supra note 36. Some at-home dad resources advocate “switchback” plans for dads: agreements between spouses regarding career reentry for the father. Gill, supra note 88, at 118–19.
In more than one-quarter of the stories analyzed in this Article, at least one at-home father maintained some type of paid employment while being at home. Several factors can play into this percentage; most importantly, men may work part time out of sheer financial need. This cannot be discounted. But regardless of why the man is in the labor market, his participation has masculinity implications.

Part-time work can preserve masculinity in two ways: First, it maintains the father’s connection to an exceedingly masculinized world—the paid labor force. Second, it conceals caregiving responsibilities from an often-unsupportive world by allowing men to identify as a breadwinner instead of a caregiver.

Maintaining paid work of any degree allows the at-home father to meet the breadwinner requirement at least in spirit. Even if the father is not the primary breadwinner, maintaining part-time work tethers the at-home father to the paid labor market, thus allowing him to enter and exit more freely than if he were to leave it altogether. This protects internal notions of masculinity imposed by society and preserves the potential to reclaim a traditional breadwinning role in the family by reengaging in paid work full time at some later point.

In this study, the significance of paid labor to maintaining some at-home fathers’ masculinity is seen in stories discussing men at home in support of their wives’ greater earning capacity, a move that threatens their masculinity. Stories that discuss men who are at home because of their

114. Whether this was influenced by the economic downturn is unknown. However, when the number of stories in this dataset that include a man with paid employment is examined, there is little year-to-year difference with the exception of 2006, when there was an uptick in stories mentioning fathers with paid employment; it dropped the following year. See, e.g., Just Wait Until Your Mother Gets Home, supra note 34 (“Although, technically, he has no job, in a sense he has two. He also squeezes in work as a freelance writer and poet between 5 and 7 a.m., before his daughter wakes, or during naptime.”). In one study, more than sixty percent of the at-home fathers interviewed had worked since taking on the primary caregiver role. Latshaw, supra note 29, at 135.

115. Just Wait Until Your Mother Gets Home, supra note 34 (noting that, in 2011, only sixteen percent of households had a breadwinner husband and an at-home wife).

116. Jahke, supra note 82 (“The part-time work doesn’t actually add to the [family’s] bottom line, since almost all of his pay goes to the babysitter required to get him out of the house. But [he] said it’s crucial for his mental health to feel that he is providing.”).

117. See Nicholas W. Townsend, The Package Deal: Marriage, Work, and Fatherhood in Men’s Lives 117 (2002) (“Men who do not have jobs are frequently branded as unworthy, morally inferior, and failures as men.”) (emphasis original). In one study, both at-home mothers and fathers talked about the importance of maintaining some paid work, but fathers emphasized paid work while mothers emphasized care work. “It’s Almost Like I Have a Job”, supra note 64, at 287–89.

118. In this study, nine percent of stories discussed the negative impact the at-home father role can have on a husband’s potential earnings or ability to reenter the workforce.

119. This logistic regression, analyzing whether a father at home to support his wife’s earnings predicts role rejection, had a significance predictor of less than .001 with a log
wives’ earning capacity are three times more likely to also mention traits associated with hegemonic masculinity. In the overall sample, twenty-seven percent of stories discuss at-home fathers who engage in paid labor. However, the instant study shows that in stories with men at home to support their wives’ work, that number rises to forty-six percent. Arguably, then, when men’s masculinity is most threatened—when they are at home specifically because of their wives’ breadwinning power—they may be less likely to abandon paid work altogether.

Maintaining paid work may also allow at-home fathers to veil their caregiving role, thus simultaneously preserving their masculinity and reinforcing notions of hegemonic masculinity outside of the family. For example, maintaining any paid work makes an at-home father invisible to the Census; making money prevents him from being counted as an at-home father even when he functions as the primary caregiver. It is unlikely that fathers are motivated by the Census, of course. However, the operation of the Census shows how male caretaking can be invisible to society when a man can answer the “what do you do?” question by discussing his paid employment, even if marginal, rather than his caregiving responsibilities.

Some stories also suggested that some at-home fathers compensate for the loss of their breadwinner role by redefining what it means to be a provider. In lieu of focusing on breadwinning, at-home fathers may...
focus their time on being a household manager or on “masculine” household work, such as carpentry or household repairs.\textsuperscript{126} Many at-home fathers do perform household tasks typically thought of as “female” labor: cooking, cleaning, and laundry.\textsuperscript{127} Although traditionally female, and thus oppositional to hegemonic notions of masculinity, control over household tasks—especially when coupled with continued secondary wage earning—may actually solidify men’s power at home by cementing a father’s primary role in both the public and private life of the family.\textsuperscript{128} Breadwinner adaptive masculinity, then, may either signal a new, inclusive masculinity that integrates care and wage-earning or it may signal an extension of hegemonic masculinity; it may reinforce the importance of breadwinning as opposed to caregiving as well as expand the man’s influence at home.\textsuperscript{129} As one commentator argued, “This ideological sleight of hand robs women of the institutional power of being the provider, but allows spouses to construct identities consistent with normative gender expectations.”\textsuperscript{130}

The entrenchment of the breadwinner role—and its retention by at-home fathers through breadwinner adaptive masculinity—has significant implications for attempts at work-family law reform. If at-home fathers retain masculinity by keeping their toes in the paid labor force, it is reasonable to hypothesize that some men in the full-time labor force may be more apt to take advantage of work-family laws, such as the FMLA, if they can simultaneously preserve their breadwinning status, even if merely in appearance. Further, some men may be more likely to assume primary caregiving roles full time if they can maintain some kind of participation in

\begin{flushleft}
Monique Beeler, \textit{A Peek Into the Lives of Some Bay Area Dads}, \textit{Alameda Times-Star}, June 20, 2004, \textit{available at} 2004 WLNR 20603136 (“Providing for my children emotionally was as equally important (to me) as providing for them economically.”).
\textsuperscript{126} \textsuperscript{126} See \textit{Doucet}, \textit{supra} note 8, at 186–88.

\textsuperscript{127} More than thirty-five percent of stories cited at-home fathers who accepted stereotypically female household labor. This study suggests that “female” household labor is correlated with care-motivated motivators for becoming an at-home father. Typically, women do more household labor than men. “On an average day, [eighty-five] percent of women and [sixty-seven] percent of men spent some time doing household activities such as housework, cooking, lawn care, or financial and other household management.” U.S. Dep’t of Labor, \textit{2009 American Time Use Study}, \textit{Bureau of Labor Stat.} (June 22, 2010), http://www.bls.gov/news.release/archives/atus_06222010.pdf.

\textsuperscript{128} This is the idea of complicity: even men who do not conform to all aspects of hegemonic masculinity still benefit from its presence. \textit{Masculinities, supra} note 37, at 79.

\textsuperscript{129} At least one study suggests that men who thought their prior paid work played a large part in their self-definition were not dissatisfied with their role as at-home fathers. This may be because they view their role as an at-home father as employment. Rochlen et al., \textit{Predictors of Relationship Satisfaction, Psychological Well-Being, and Life Satisfaction Among Stay-At-Home Fathers}, \textit{9 Psychology Men & Masculinity} 17, 24 (2008) [hereinafter \textit{Predictors of Relationship Satisfaction}].

\textsuperscript{130} Tichenor, \textit{supra} note 64, at 200.
\end{flushleft}
the paid labor market.

B. Caregiving Adaptive Masculinity

“We were sitting there eating pizza and drinking beer and talking about diaper rash and potty training. . . . That’s just how it goes.”

—An at-home father describing an at-home fathers’ group meeting

Just as in high school, where some boys were part of the social elite (think, perhaps, of the overtly masculine football player) and others were not (maybe the sensitive drama participant), there are hierarchies of men, and those hierarchies are deeply gendered. When it comes to caregiving, men are often treated like invaders on women’s turf.

Although men increasingly take on caregiver roles in families, a man who takes on the primary caregiver role is viewed as having adopted the feminine gender (he is the “mommy” in the family). . . . Despite the increasing fluidity of the roles men and women undertake, our conceptions of gender remain largely unchanged.

Therefore, even though men as a group tend to be powerful, certain men—including at-home fathers—may not be as “masculine,” and thus not as powerful, as other men. Their gender non-conformity “must be neutralized” by rendering its performance less visible.

Participation in at-home fathers’ groups was the most commonly identified variable in the stories examined for this study.
participation may be physical, in that dads meet in person, or virtual, such as participation in online groups or blogs.\textsuperscript{138} Forty-one percent of stories included a man who participated in an at-home fathers’ group of some kind. When a man was cited as becoming an at-home father because of his wife’s superior earning capacity or when he discussed role rejection, the story was almost twice as likely to discuss participation in at-home fathers’ groups as compared with other stories.\textsuperscript{139}

As the study was quantitative, not qualitative, we can only extrapolate from media accounts of why men seek out at-home fathers’ groups. However, the stories support a hypothesis that participating in these groups may both reflect and protect notions of masculinity, depending upon the extent to which the group defines each father’s identity.\textsuperscript{140} Membership may be responsive to societal rejection and scrutiny of at-home father “performance” in their dual roles as men and caregivers, especially in public.\textsuperscript{141}

At-home fathers report suffering from isolation\textsuperscript{142} and stigmatization.\textsuperscript{143} Often, their own fathers are not role models when it

\textsuperscript{138} Today Show: Dr. Dale Atkins Discusses How Men Can Make Staying At Home a Rewarding Experience (NBC television broadcast Jan. 28, 2009), available at 2009 WLNR 1642230 (quoting an at-home father as saying, “We get to eat lunch, talk sports and talk about how our kids are developing.”). Men also meet individually with other at-home fathers. Sarah Kershaw, Mr. Moms (By Way of Fortune 500), N.Y. Times (Apr. 22, 2009), available at http://www.nytimes.com/2009/04/23/fashion/23dads.html?pagewanted=all (including one at-home father calling his weekly meetings with another at-home father his “antidepressant elixir”). There are many local and national online at-home fathers’ groups. See, e.g., AT HOME DAD: THE STAY-AT-HOME DAD OASIS, http://www.athomedad.org (last visited Nov. 12, 2012); SEATTLE STAY-AT-HOME DADS, http://www.seattledads.org (last visited Nov. 12, 2012). One New York City at-home fathers’ group has approximately 600 members. MEETUP GROUP, supra note 87. There are books on the topic as well. See, e.g., PETER BAYLIES WITH JESSICA TOONKEL, THE STAY-AT-HOME DAD HANDBOOK (2004); GILL, supra note 88.

\textsuperscript{139} This logistic regression had a significance predictor of .001 with a log odds ratio of 1.936.


\textsuperscript{141} See DOUCET, supra note 8, at 190–91.

\textsuperscript{142} Eleven percent of stories included men who reported that they felt excluded by mothers; twenty-four percent reported at-home fathers feeling rejected on the basis of their role.

\textsuperscript{143} Predictors of Relationship Satisfaction, supra note 129, at 23–26. Wives of at-home fathers may also feel stigmatized. Marianne Dunn et al., Employee, Mother, and Partner: An Exploratory Investigation of Working Women With Stay-At-Home Fathers, 1 J. Career Dev. 1, 13 (2011).
comes to serving as a primary caretaker. At-home fathers’ groups may
counteract both the stigma and isolation at-home fathers face by
normalizing the at-home father family structure for the at-home fathers
who participate in them.

Also, like part-time work, at-home fathers’ groups can serve a veiling
function: although the fathers are the primary caregivers in their families,
their day-to-day tasks and perceived feminine behavior can be partially
hidden behind the curtain of men’s groups while they simultaneously bond
with other men. At-home fathers, this study suggests, obscure their gender-
subversive caregiving actions—they do not hide them completely. “[A] ‘veil’ is sufficiently translucent to hint at what lies beneath. Rather than
blocking out or completely covering awareness or knowledge, it allows for
some vision or some knowledge of the subject, however obscured.”

Through veiling, we see that masculinity is salient even to at-home fathers,
presumably the most gender-subversive fathers. Thus, it is a fair
assumption that it is salient to men who occupy traditionally masculine
roles at home and at work. Furthermore, in some groups, at-home fathers
reinforce their masculinity by engaging in traditionally male activities such
as watching or participating in sports. They can also receive advice and

144. CNN Saturday Morning News: Stay-at-Home Dads Bond Through Blogging (CNN
  television broadcast Sept. 25, 2010), transcript available at
  http://transcripts.cnn.com/TRANSCRIPTS/1009/25/smn.03.html (“This role is being
  completely reinvented. And lots of men out there [are] wanting to talk about it, because
  there’s not a previous generation you can go to. You can’t go to your dad, because his form
  of fatherhood was completely different than what we see today.”).

145. About At-Home Dads, NATIONAL AT-HOME DAD NETWORK,
  http://www.daddyshome.org/about_at_home_dads.php (last visited Nov. 12, 2012) (“In
  order to improve one’s life as an at-home dad, and that of his family, he must be brought out
  of isolation and re-form his identity to become confident in this boundary-breaking role.”).
  See also Brenda Major & Laurie T. O’Brien, The Social Psychology of Stigma, 56 ANN.
  REV. PSYCHOL. 393, 405 (2005).

146. See, e.g., DOUCET, supra note 8, at 165; Reconstruction of Masculinity, supra note
  75, at 244; Merla, supra note 72, at 126. Men may benefit from hegemonic masculinity even
  if they reject some of its core attributes. MASCULINITIES, supra note 37, at 79.

147. Higgins et al., supra note 76, at 309.

148. Some at-home fathers appear to use athletics as the centerpiece around which they
  gather. Becky Stoppa, Dad Who Stays Home Seeks Others Who Do, ANCHORAGE DAILY
  NEWS, Aug. 22, 2007, available at 2007 WLNR 16381838 (“I think the one difference was
  that the dads group is more male-oriented, more towards what guys like, I guess.”). But see
  Merla, supra note 72, at 124 (saying at-home fathers found it hard to participate in men’s
  groups centered on sports). Although a relatively small number of stories in this study
  specifically discussed fathers playing sports (seven percent) or watching sports (two
  percent), when analyzed as a group, participation in traditionally male hobbies or housework
  was mentioned in seventeen percent of the stories. See, e.g., Just Wait Until Your Mother
  Gets Home, supra note 34 (“I do woodworking, leatherworking. I learned all sorts of manly
  skills that I never would have had time to learn if I were sitting in an office [twenty-eight]
  stories above San Francisco.”).
support, regarding both childcare and relationships, in a single-sex environment. This is important because masculinity demands that men exhibit “emotionally stoic” leadership, a trait not traditionally associated with a caregiver. Therefore, even if only for brief periods of time, at-home fathers’ group attendance may shield men from the “social gaze” and questioning eyes of women and society at large.

Although not all men’s groups do, excluding women from at-home fathers’ groups places women as an oppositional force, an action central to demonstrating hegemonic masculinity. At-home fathers’ acceptance of a caregiving role combined with their apparent simultaneous opposition to the traditional occupiers of the at-home role—women—is striking. This phenomenon bears directly on the issue of whether at-home father families—supposedly the most genderless of heterosexual procreative families—mark an evolution of gender roles.

At a minimum, this study suggests that at-home fathers act in ways consistent with hegemonic masculinity even as they subvert it. Breadwinner and caregiving adaptive masculinities are tools—employed consciously or subconsciously—that allow men to caregive in a society that devalues that activity. If these adaptations are available to other men, they might facilitate caregiving by breadwinners, allowing them to retain or recast their masculinity and more easily take advantage of leave laws such as the FMLA.

IV. Putting Adaptive Masculinities to Work

If, in fact, at-home fathers successfully use breadwinner and caregiving masculinities to address masculinities issues, then these

149. Working Therapeutically, supra note 64, at 219; Reasons for Entering the Role, supra note 64, at 284.

150. Brooks & Gilbert, supra note 4, at 267–68.


153. Less than four percent of the stories cited men as saying their role would impact their children’s perceptions of gender roles. The low percentage may reflect fathers’ actual perceptions of their impact, fathers’ lack of knowledge of gender issues more generally, media bias or lack of knowledge, or that this issue is not significant to men, the media, or both.
adaptations may also benefit other men. However, this section suggests that the adaptive masculinities presented by at-home fathers are not available to all men, such as those eligible for FMLA leave. The FMLA's structure precludes some men from using these adaptive masculinities. For this reason, men eligible for FMLA leave may have a more difficult time responding to questions about their masculinity—and taking leave.

A. Adaptive Masculinities and the Family and Medical Leave Act

The FMLA, enacted in 1993, was a step toward work-family balance protection for Americans. Workers have used FMLA leave more than 100 million times since its inception. But now, seeing that many of its promises have been unfulfilled, a coalition of more than 200 organizations is working toward its reform.

While passage of the FMLA marked progress in terms of legal reform addressing work-family balance issues, its coverage is narrow in scope, and the law is often not used, even by those covered.

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to: Twelve workweeks of leave in a 12-month period for: the birth of a child and to care for the newborn child within one year of birth; the placement with the employee of a child for adoption or foster...
care and to care for the newly placed child within one year of placement; to care for the employee’s spouse, child, or parent who has a serious health condition; [and] a serious health condition that makes the employee unable to perform the essential functions of his or her job. . . . 

Leave-takers are granted some protections when exercising their FMLA rights. About fifty to sixty percent of the American workforce is eligible for FMLA leave. Efforts to expand FMLA coverage have largely been unsuccessful.

161. See, e.g., Deborah J. Anthony, The Hidden Harms of the Family and Medical Leave Act: Gender-Neutral Versus Gender-Equal, 16 J. GENDER, SOC. POL’Y & L. 459, 481–87 (2008); The 2000 Survey Report, Chapter 1, Background, U.S. DEP’T OF LABOR-WAGE AND HOUR DIV., http://www.dol.gov/whd/fmla/chapter1.htm#.UKVVaDnR38s (last visited Nov. 15, 2012) ("A number of changes to the FMLA have been proposed since the 1993 Act was implemented. Changes that have been proposed include: lowering the establishment size threshold, so that employees at smaller establishments would be covered; allowing leave for different reasons, such as attending parent-teacher conferences at children’s schools; expanding the categories of people for whom one can take leave, so that care for people other than those specified in the FMLA would be covered; redefining ‘serious health condition,’ to ensure that leave is taken only for the most serious health problems; limiting the use of intermittent leave, to minimize the burden for employers; extending the duration of leave permitted, so that employees can take longer leaves if necessary; extending coverage to currently non-eligible workers, such as part-time employees and new employees; and making some provision for paid leave, so that employees do not forego taking leave, cut their leave short, or experience financial hardship due to the lack of paid leave. Although none of these changes to the FMLA have been enacted, in some instances, specific proposals have been advanced."); Fact Sheet #28A: The Family and Medical Leave Act Military Family Leave Entitlements, U.S. DEP’T OF LABOR-WAGE AND HOUR DIV. (revised Feb. 2010), http://www.dol.gov/whd/regs/compliance/whdfs28a.pdf (noting that Military member-related coverage was amended); Family and Medical Leave Act Airline Flight Crew Technical Amendments, U.S. DEP’T OF LABOR-WAGE AND HOUR DIV., http://www.dol.gov/whd/fmla/airline.htm (last visited Nov. 15, 2012) (coverage related to airline flight crews was amended); Runge, supra note 15. Compare Eve Zibel, Obama Extends Family and Medical Leave Act to Cover Gay Employees, FOXNEWS.COM (June 22, 2010), http://www.foxnews.com/politics/2010/06/22/obama-extends-family-medical-leave-act-cover-gay-employees/ (last visited Nov. 18, 2012) (noting that FMLA applicability has
The FMLA has not been a solution to the work-family balance problems families face for many reasons, but the reason most relevant to this Article is that FMLA use is acutely gendered. At the time of the law’s passage, congressional findings showed that legislators were aware of the gender stereotyping that negatively impacted men’s and women’s abilities to parent and work free from discrimination. Nearly two decades later, the success of the FMLA for men is questionable. As of 2001, the number of men eligible to use FMLA leave had increased dramatically, but men’s use increased only minimally.

A 2000 survey found that women were almost forty percent more likely to take FMLA leave than men. Although the percentage of men and women who take FMLA leave to care for a newborn is similar—twenty-nine percent of women and twenty-three percent of men—it is estimated that the median number of days of childbirth leave taken by women is approximately sixty days, compared to eight days for men. Moreover, a Congressional Budget Office report estimating the cost of an expanded federal leave program projected that, as compared to women, half the number of men would take the allowable leave. According to another report, most men who take time off after the birth of a child do so by negotiating directly with their managers, not by asserting their rights under the FMLA. Until men take FMLA leave, its use will reinforce the gendered norm that makes caregiving “feminine,” both holding men back...
from participating in caregiving and also perpetuating discrimination against women caregivers in the workplace.\textsuperscript{168}

Men who do exercise FMLA rights may face discrimination. In one study, men who took FMLA leave to care for a newborn were rated as worse employees than women who did the same.\textsuperscript{169} Viewing this phenomenon through the lens of masculinities suggests that men may not avail themselves of FMLA benefits, in part, because the law fails to account for the masculinities pressures attached to breadwinning and caregiving.

This study showed that at-home fathers featured in the media did not identify “work-family balance” as the reason they stayed home. Rather, they identified several, more specific reasons as the cause: the cost of childcare, for example. These more specific reasons are work-family balance reasons but are not generally identified as such. Coupling this finding with the fact that more men cited economic reasons for staying home than caregiving-related reasons, the study may suggest that the rhetoric of “work-family balance” does not resonate with men.\textsuperscript{170}

If fathers do not think they have a work-family balance issue (or think identifying one is not masculine), they may see the FMLA and its provisions as unnecessary for them.\textsuperscript{171} If they see leave as a decision based more on finances than on caregiving (or think taking leave for caretaking is not masculine), again, the balance rhetoric and caregiving rhetoric attached to FMLA use may ring hollow. To successfully engage men in taking leave, it may be necessary to begin to disaggregate taking leave from caregiving.\textsuperscript{172}

Scrapping the FMLA for an entirely new leave regime is a radical


\textsuperscript{170}. This is a hypothesis suggested, but certainly not proven, by this study. Men’s identification with work-family balance rhetoric merits direct research.

\textsuperscript{171}. A growing body of research suggests men are interested in balancing caregiving and breadwinning, even if they expect to remain in the full-time labor force. If this continues, using the FMLA may be a more viable option for men, as a critical mass of men taking leave will make it easier for others to follow suit. See, \textit{e.g.}, \textsc{Kerstin Aumann et al., The New Male Mystique, Families and Work Institute 1} (2011).

\textsuperscript{172}. See, \textit{e.g.}, Maxine Eichner, \textit{Dependency and the Liberal Polity: On Martha Fineman’s The Autonomy Myth}, 93 CALIF. L. REV. 1285, 1297–98 (2005) (observing the argument of some feminists that links between womanhood, mothering and caretaking should be disaggregated).
proposition and is unlikely to happen anytime soon.\textsuperscript{173} For this reason, work-life balance advocates are left with the proposition of amending the FMLA itself or passing additional, laws to fill in its gaps, both options which are politically challenging. Any amendment should be done in a way that is cognizant of the masculinities challenges men face, just as they should account for the caregiving presumptions women face.

The lack of paid leave, short-term leave, and the limited applicability of the FMLA are all areas advocates focus on when pushing for work-family law reform.\textsuperscript{174} Perhaps unsurprisingly, it is the very lack of paid leave, short-term leave, and limited FMLA coverage that limits men’s ability to use adaptive masculinities to preserve masculinity while taking leave. This is problematic: the use of adaptive masculinities appears to be successful for some at-home fathers in that they are able to engage in caregiving while preserving both an internal sense and an external performance of masculinity. The question, then, is can traditional breadwinning men use the same or similar adaptive masculinities to protect their masculinity while taking FMLA leave? The answer is no. The FMLA is structured in a way that precludes men from engaging in the types of adaptive masculinities employed by at-home fathers, and thus leaves men who want to take leave vulnerable.

1. Making the Current Leave Structure Paid

“All it takes is one major life event—a new baby, a serious illness, losing your job, a family crisis, some unexpected emergency—and everything can unravel. Where’s our economic security?”\textsuperscript{175}

If there is one issue that is a call-to-arms for work-family balance law reformers, it is making FMLA leave paid.\textsuperscript{176} Nearly eighty percent of

\textsuperscript{173} Many countries have decidedly different—and more family-protective—work-family balance regimes. Julie C. Suk, Are Gender Stereotypes Bad for Women? Rethinking Antidiscrimination Law and Work-Family Conflict, 110 COLUM. L. REV. 1, 24–40 (2010).


\textsuperscript{176} See, e.g., id.; Waldfogel, supra note 163, at 18; Paid Leave, supra note 174;
employees eligible for FMLA leave who did not take it after a qualifying event said they did not do so because leave was unpaid.177

This study suggests that some families make decisions about care based at least in part on maximizing family income.178 This is logical. Significantly, then, whether a father is at home or at work, this study suggests that finances may be determinative of a man’s (or family’s) decision-making regarding caregiving. When leave is paid, men will be more likely to take it.179

Paid leave, however, is not only a financial issue. Men who earn money may be treated as more masculine than men who are caregivers. Men themselves may buy into this masculinity norm. At-home fathers who maintain some type of paid work may self-identify—and identify to others—not as an at-home father but as a paid worker.180 Thus, earning money may not only be significant to a family’s finances: being paid when taking leave may preserve masculinity by preserving a breadwinning role.

As at-home fathers show, some men reframe their conception of masculinity in a way that accounts for caregiving: fathers may do this by maintaining limited, paid work. If a father working for pay leaves employment, he will likely face masculinity pressures similar to those faced by at-home fathers, as both groups of fathers are stepping down (or off) the masculine breadwinner ladder to engage in “female” caregiving. In other words, given the strength of the breadwinner norm, it may be beneficial to enable all fathers to engage in breadwinner adaptive masculinity. The clearest way to account for this is to make FMLA leave paid.181


178. Id. at 7. Many people find it unacceptable for a man to stay at home when doing so reduces the family income. See, e.g., Robin Fretwell Wilson, Keeping Women in Business (and Family), in RETHINKING BUSINESS MANAGEMENT: EXAMINING THE FOUNDATIONS OF BUSINESS EDUCATION 97–98 (Samuel Gregg & James R. Stoner, Jr. eds., ISI Distributed Titles 2d ed.) (2008).
180. Latshaw, supra note 29, at 135; Zimmerman, supra note 77, at 345.
181. Masculinity is a performance, however, so simply paying men on FMLA leave may be insufficient. See Benwell, supra note 44, at 8. Breadwinners are typically physically removed from the home and placed in the public, where their labor can be seen and validated by others; paying men to take leave may not be effective because the public performance of breadwinning will be absent. Therefore, caregiving adaptive masculinity suggests that in addition to paid leave, reform efforts must find a way to account for the loss of a public role. One possible solution is to couple paid leave with a coordinated campaign to drive home the message that taking paid leave as a father is part of being a “real man.”
Leave may not need to be fully paid to increase male leave-taking.\textsuperscript{182} As breadwinner adaptive masculinity suggests, even that small additional income may be significant in compensating both for the loss of the primary breadwinner role within the family and aiding family financial security.\textsuperscript{183} This option may be especially appealing to breadwinning men.

It is unclear, however, whether paid leave will increase the number of men taking leave.\textsuperscript{184} In countries where paid leave is available, many men still do not avail themselves of leave.\textsuperscript{185} However, caretaking adaptive masculinity suggests that men may veil their caregiving activities and seek the company of other, similarly situated men.\textsuperscript{186} If a critical mass of men takes paid leave, they may have the support and masculinity reinforcement of other men that is necessary to make leave more palatable. Paid leave (especially without a critical mass of leave-taking fathers) does not necessarily allow men to veil their caregiving activities: the decision to take leave and remove themselves from their workforce is conspicuous.\textsuperscript{187} It may be less so if men are able to take short-term or periodic leave.

2. Adding Paid Short-Term Leave

\textquote{It’s time for our nation to show that it values families. Other nations get it. Workers in 145 countries around the world have paid sick days. But not in the United States.}\textsuperscript{188}

\textsuperscript{182} This possibility is similar to making intermittent leave, which is currently allowed under the FMLA at the discretion of the employer, paid. FMLA of 1993, 29 U.S.C. §2612(b)(1) (2006).
\textsuperscript{183} Id.
\textsuperscript{184} Even when leave is available, men access leave at low rates: in California, for example, women accounted for almost eighty percent of claims made for paid leave. Sarah Fass, \textit{Paid Leave in the States}, NATIONAL CENTER FOR CHILDREN IN POVERTY 7 (March 2009), http://www.nccp.org/publications/pdf/text_864.pdf. There are problems with awareness of the availability of leave. Id. Should paid leave under the FMLA prove inadequate to increase male participation, additional measures may be required, such as public education campaigns, mandatory leave, or making maternity leave dependent on the exercise of paternity leave. See Michael Selmi, \textit{The Limited Vision of the Family and Medical Leave Act}, 44 \textit{Vill. L. Rev.} 395, 411 (1999).
\textsuperscript{185} Selmi, supra note 184, at 410.
\textsuperscript{186} Vavrus, supra note 64, at 362–63.
\textsuperscript{187} It is possible (though unlikely) that taking unpaid leave could be seen as masculine, as it signals that the man at issue earns enough money normally to be able to afford to do so.
\textsuperscript{188} Paid Sick Days, supra note 175. Short-term leave could also be used for things like school conference attendance.
Adding short-term, paid leave—specifically, paid sick leave—to the FMLA or via another, new law is another issue central to reform efforts. Almost forty percent of private-sector workers—and more than eighty percent of low-wage workers—do not have a single paid sick day. Providing paid leave for workers to recover from short-term illness or to care for an ill family member may be particularly attractive to men. It would allow caregiving on a short-term—but meaningful—basis. The adaptive masculinities needed for longer-term care, as we see in breadwinning and caretaking adaptive masculinities, would be less necessary given that, by definition, leave would be both paid and veiled. While short-term paid leave may not be considered “breadwinning” in the traditional sense, opting for short-term leave likely would not draw the attention of coworkers to the extent of long-term leave. Thus, threats to masculinity are less severe. Like the at-home fathers in this study who worked part time, working fathers accessing paid, short-term leave—whether sick leave or for other reasons—may add little to the family bottom line with a day or two of paid sick leave, but they do add something to the family finances and family balance.

Moreover, paid short-term leave averts some of the masculinities issues presented by paid long-term leave. Unlike longer leave, which may visibly remove a man from the community of workers with whom he may most identify, at least when it comes to establishing his masculine norm, short-term paid leave removes men from their touchstone network for only a brief period of time, thus preserving their place on the hierarchy of masculinities. They can still identify themselves as paid workers, as did the at-home fathers in this study who maintained part-time paid work. As a result, short-term leave may increase the likelihood that fathers will take leave because it provides a minimal degree of disruption to work life, masculine identities, and family finances.


3. Expanding FMLA Coverage

Nearly fifty percent of this nation’s workers are not covered by the FMLA. There are various reasons why an individual worker may not be eligible for FMLA leave. Under the FMLA, there are extensive requirements both for employers and for employees in order for the FMLA to even apply. Given the gaps in FMLA coverage, numerous organizations are pressing for FMLA reform centered on boosting the number of employees who can avail themselves of the law.

Caretaking adaptive masculinity suggests that men may veil their actions by seeking the company of other, similarly situated men. Veiling is made difficult by the FMLA’s limited applicability to the American workforce: the fewer men who can use it, the fewer who will, and the more visible the ones who do take leave will be. Men, as membership in at-home fathers’ groups suggests, may be more willing to take on threats to their masculinity when they have other men to support them in that endeavor. The more men who take leave, the less obvious individual leave-takers will be.

Contrary to conventional wisdom, many employers find the FMLA itself easy to comply with and even beneficial to their workplace. Ninety percent of employers said administering the FMLA did not impact their company’s profitability. A 2011 study by the Center for Economic and Policy Research says that employers in states with paid leave programs report that these programs have “an overwhelmingly positive or neutral effect on productivity, profitability, turnover, and employee morale.” In addition to FMLA reform and the addition of state leave laws, individual companies can opt to provide leave that is more expansive—and paid—


194. Vavrus, supra note 64, at 362–63.


196. Waldfoegel, supra note 163, at 19, Table 2 (stating that nearly sixty-four percent of the covered establishments said in 2000 that the FMLA is very or somewhat easy to comply with, down from eighty-five percent in 1995).

197. Id.


A challenge, though, may be the extent to which masculinities issues are present in the government and in corporate culture itself.\footnote{200}{ASKING THE MAN QUESTION, supra note 53, at 419.} Politics is dominated by men.\footnote{201}{Patricia Sellers, Fortune 500 Women CEOs Hit A Milestone, CNN MONEY (Nov. 12, 2012), http://postcardsblogs.fortune.cnn.com/2012/11/12/fortune-500-women-ceos-3/ (last visited Nov. 16, 2012).} Men also dominate the executive suite: women head only twenty-one of the Fortune 500 companies.\footnote{202}{Id.} Institutions are made of individuals, and when the individuals needed to implement reform are mostly men, masculinity is certain to be an issue.\footnote{203}{Creating Masculine Identities, supra note 43, at 1155, 1159 (saying gender is embedded the workplace and institutions).} This is not to say that these men do not want reform. Rather, it suggests that all men face masculinity-related pressure, whether powerful government actors, corporate executives, factory supervisors, or at-home fathers.

B. The Dangers of Applying Adaptive Masculinities to the Law

“If a stay-at-home father actually anti-feminist in some ways, since he contributes to the traditional breadwinner/homemaker roles, just with different genders—roles that will most likely continue to put more pressure on women than men to tether their ambition for their children’s sake?”


Using adaptive masculinities to reform work-family balance law presents concerns, most notably whether using such tools further entrenches gender norms. By employing adaptive masculinities in the legal reform process, we run the risk of enshrining a deeply flawed gender system—or, at a minimum, further concealing those flaws.\footnote{205}{See, e.g., Feminism for Men, supra note 41, at 1056 (“Only recently have scholars begun to direct attention toward the ways in which legal doctrines and constructs may reinscribe stereotypes of male aggression.”).} Men who are at home while women are at work do not necessarily subvert traditional gender roles;\footnote{206}{Supra Part III.} the sex of the person occupying each role may be flipped,
but the roles themselves continue to exist.\(^{207}\)

Specific to the work-family balance context, facilitating leave is certainly beneficial for families, but it does nothing to change the labor system, which is structured around male norms.\(^{208}\) While solutions that allow veiled caregiving may improve the options available to individual families, they do nothing to reduce the stigma and devaluation that caregiving receives. This is a burden that falls primarily on women, notwithstanding the attention given to at-home fathers. Furthermore, reinforcing the importance of breadwinning may further marginalize caregivers, who are already economically vulnerable.\(^{209}\)

Significantly, masculinities theory suggests that different men in different social contexts face different masculinities pressures.\(^{210}\) Making conclusions regarding the motivations of men—even a small group of men such as at-home fathers—may essentialize them. For this reason, the insights and efforts at reform using adaptive masculinities will be incomplete at best.

Efforts to engage men in legal reform “must attend to differences among men.”\(^{211}\) We must acknowledge that some men may make a deliberate decision to act in their own self-interest, which may or may not benefit their families.\(^{212}\) Further gender role deconstruction above and beyond FMLA reform is necessary to equalize familial roles and balance work-family obligations, and men must take equal responsibility for this deconstruction.

C. Study Limitations

There are several limitations to this study. Perhaps the most significant limitation is the data source.\(^{213}\) The conclusions in this Article are drawn

\(^{207}\) Vavrus, supra note 64, at 353.

\(^{208}\) Unbending Gender, supra note 2, at 1–6 (discussing the “ideal worker” norm).

\(^{209}\) See Reshaping the Work-Family Debate, supra note 59, at 26 (discussing women who supposedly “opt out” of work).

\(^{210}\) The Men and the Boys, supra note 45, at 10; Masculinity, Law and the Family, supra note 46, at 42.

\(^{211}\) The Man Question, supra note 19, at 112. But, even with FMLA reform, at-home fathers—and at-home mothers—most likely will not be paid for their labor. However, their partners—with reform—just might.

\(^{212}\) Whether men are making a choice or whether they are even aware that choice exists given societal dictates regarding masculinity is debatable. Feminism for Men, supra note 41, at 1082–83 (“The harms of patriarchy are not harms to only one gender.”).

\(^{213}\) The media may focus on privileged men, as some argue they do women. See How the Media Treats Mothers and Caregivers Economic Rights Issues, Nat’l Org. for Women, http://www.now.org/issues/mothers/media.html [hereinafter How the Media Treats Mothers] (stating the media “report only on the experiences and attitudes of small or elite groups of mothers”) (last visited Nov. 16, 2012).
from an analysis of media stories. There are at least two types of limitations that media-based analyses face: first, the accuracy of the reporting, and second, whether it can be generalized to the actual phenomena covered. While both of these limitations may apply to this study, it nonetheless provides valuable information pertaining to masculinities and work-family balance law.

First, media reports may contain errors or omit key facts and context. News coverage is subject to possible biases in story selection, reporting process, and editing. The reporters and editors involved may have introduced inaccuracies. These inaccuracies may come from unintentional errors, unadulterated bias, or simply the frame under which a story is written. However, the dataset produced in this study was large and diverse in that it sampled numerous geographically and varied media outlets, arguably minimizing the impact of bias in any single piece.

Second, media mentions of masculinities in this study may diverge from the actual frequency of such indicators in the at-home father population. This may be the case for several reasons including the source of the data, subjectivity in coding and analysis, and the method of coding used.

Moreover, the at-home fathers quoted in the media likely do not represent the demographics of the entire at-home father community. For example, not all at-home fathers are educationally and socioeconomically privileged men, and such men may be overrepresented in news coverage. According to the Census Bureau, the greatest number of at-home fathers in 2010 were men in their late thirties living in wealthy families. But at-home fatherhood is diverse by race, sexuality, and geography, among other factors; a significant portion of at-home fathers, for example, are part of families living at or below the poverty line. Additionally, these men stay home for myriad reasons. The planned or unplanned tenure of their at-

214. Id.
215. The demographics of the data in this study could not be compared with Census statistics on at-home fathers because they were not commonly discussed by the media.
216. See generally Burkstrand-Reid, supra note 78 (this was the case with the “Opt-Out Revolution” storyline).
217. See Vavrus, supra note 64, at 354 (asserting that the television stories examined “privilege a narrow definition of family by featuring only heterosexual, married parents”). At-home mothers, too, may be portrayed in a skewed manner. Reshaping the Work-Family Debate, supra note 59, at 17–21.
218. America’s Families and Living Arrangements, supra note 27, at Table FG8.
219. Id.
220. Id. See also Edward H. Thompson, Jr., What’s Unique About Men’s Caregiving, in Men Reshaping the Work-Family Debate as Caregivers: Theory, Research, and Service Implications 20, 27 (Betty J. Kramer & Edward H. Thompson, Jr. eds., 2002) (discussing the treatment of men as a homogenous class).
221. See supra Part II.A.; Working Therapeutically, supra note 64, at 209–10; Merla,
home status is varied. Because expressions of masculinity intersect with characteristics such as race, sexuality, and socioeconomic status, the types of masculinities we see in the at-home fathers featured in the media may differ from other fathers who are not featured.

Although the study used masculinities indicators derived from legal and social science literature on masculinities, the variables used and the coding are necessarily subjective, as is the case in all studies. This concern is far from unique to this study, however, as most, if not all, empirical studies may evince some bias.

Third, the study counted masculinities indicators in a simple, binary fashion. It looked only at whether each indicator was present in a story, not the frequency of each indicator in each story. It did not look at whether indicators, if present, referred to one at-home father or to multiple at-home fathers. The presence of multiple indicators in one story does not necessarily mean that multiple indicators were present in a single at-home father.

The study in this Article is best seen as generating hypotheses about the way some masculinities operate in the at-home father community and exploring how those hypotheses can be used to reform or augment the

222. See supra Part II.

223. Socioeconomic class may affect perceptions of the importance of work-family balance policies. For example, in one study, forty-three percent of men who worked in administrative or technical jobs thought paternity leave was an important policy. That figure dropped to twenty-six percent among employees one employment level up and dropped again to thirteen percent among “top” male employees. See Hochschild, supra note 2, at 131. It may be difficult to access some at-home father populations, especially given researchers’ reliance on technology to locate study participants. Reasons for Entering the Role, supra note 64, at 284. The socioeconomic class of an at-home father was only discussed in slightly more than one percent of the stories examined, and race was discussed in only ten of the 425 stories. Sexual orientation was invisible. The media’s focus on the “elite” has also been noted in feminist responses to media coverage of female caregivers. How the Media Treats Mothers, supra note 212 (saying media coverage essentializes women).

224. These factors are ubiquitous in the sources. It must be noted that, though each indicator is research-grounded, three inevitable challenges arise: (1) just as masculinities are fluid, so too are definitions of it, and this is reflected in sources, which may be contradictory in their findings; (2) it is impossible for any researcher to devise indicators of masculinity without drawing on her or his own internalized conceptions of it; and (3) indicators of masculinity are so voluminous that efforts to catalogue them are inevitably incomplete.


FMLA; it draws no definitive conclusions. Nonetheless, analyzing at-home father news stories is valuable. For better or worse, news stories are critical in both reflecting and reinforcing public perception and public policy. There is no way of knowing whether the media are magnifying masculinities by pursuing particular storylines or by choosing particular men on which to report. But the answer to that question is irrelevant for the purposes of this Article. It is irrefutable that masculinities are significant to some degree in the at-home father community. Inarguably, the indicators of masculinities—seen in hundreds of stories, on television, the radio, and in papers across the country—give credible evidence to support the contention that hegemonic masculinity is alive in the words, actions, or conscious or subconscious motivations of what might be considered the most gender-role-subverting men today.

Regardless of study limitations, some of the primary findings are supported by interdisciplinary studies on masculinities, fathers, families, employment, and caregiving. For that reason, the source of this study—the media—does not appear to be highly problematic, and the hypotheses presented regarding at-home father masculinities appear to be well-grounded.

CONCLUSION

At-home fathers may or may not signal the slow death of traditional notions of gender in families. But even if we accept that at-home fathers represent a shift in the gendered structure of the family, this shift alone does not solve the work-family balance woes that families face. Their presence does not alter the unrelenting pressures the family breadwinners face in the workplace itself. Certainly, changing presumed gender roles

226. Reeser, supra note 8, at 7 (stating that one way to look at an inquiry is as a “series of possible theoretical questions . . . around the phenomenon of masculinity”).
227. For information on the media’s ability to influence public opinion on various issues, see, e.g., Yue Tan & David H. Weaver, Local Media, Public Opinion, and State Legislative Policies: Agenda Setting at the State Level, 14 INT’L J. PRESS/POL. 454 (2009); Cindy T. Christen & Kelli E. Huberty, Media Reach, Media Influence? The Effects of Local, National, and Internet News on Public Opinion Inferences, 84 JOURNALISM & MASS COMM’N Q. 315 (2007); Donald L. Jordan, Newspaper Effects on Public Policy Preferences, 57 PUB. OPINION Q. 191 (1993).
228. Nancy Levit, Reshaping the Narrative Debate, 34 SEATTLE U.L. REV. 751, 752 (2011) (“The media have a singular ability to prioritize public issues and mold perceptions. Thus, press-constructed stories have become an increasingly powerful tool in impelling or obstructing policy change.”).
229. See generally supra Part II.B.
230. Chris O’Brien, Being ‘Mom’ Stalls Women at Work, NEWS & OBSERVER (Apr. 4, 2010) available at 2010 WLNR 6973925 (“Don’t be fooled by all these dads helping out . . . At the end of the day, the primary responsibility for raising kids almost always falls on
in the family is central to achieving work-family balance, but the necessary corollary to these ideological shifts is legal reform.

The gender balance of the workforce is changing. Dual-income families are now common, as are families with women as primary breadwinners. This demographic shift has led to creative caregiving and balance strategies, such as the at-home father family structure. Such a shift may be temporary, however, providing a limited amount of time to engage men in work-family balance legal reform. One key to taking advantage of this window may be carefully crafting calls for reform in ways that recognize that men—especially men who have served as primary caregivers—are logical allies of women in the fight for improved work-family law. Laws merit examination to ensure that they support both mothers and fathers. This means questioning how laws function in light of the strong masculinities demands that society thrusts upon men (and that men thrust upon each other). Legal reform is necessary to protect the work-family balance in families, lest employers run roughshod over their employees’ lives. But, families also have a responsibility to push for gender equity in the home. True social change comes from both individual and institutional reform.

230. Don Lee, Newly Created Jobs Go Mostly To Men, L.A. TIMES (July 16, 2012), available at 2012 WLNR 14769323 (reporting that women are ahead of men in earnings growth, but men are gaining significantly more jobs in the recession recovery).

231. Don Lee, Newly Created Jobs Go Mostly To Men, L.A. TIMES (July 16, 2012), available at 2012 WLNR 14769323 (reporting that women are ahead of men in earnings growth, but men are gaining significantly more jobs in the recession recovery).


233. See Carol Hymowitz, Behind Every Great Woman, BLOOMBERGBUSINESSWEEK (Jan. 4, 2012) http://www.businessweek.com/magazine/behind-every-great-woman-01042012.html#p1 (asserting that successful women face work-family balance pressure similar to their male predecessors).


235. See RESHAPING THE WORK-FAMILY DEBATE, supra note 59, at 218 (describing “reconstructive feminism” and the possibility of aligning men and women around the non-gendered desire to provide care).

236. Anne-Marie Slaughter, Why Women Still Can’t Have It All, THE ATLANTIC, July/Aug. 2012, http://www.theatlantic.com/magazine/archive/2012/07/why-women-still-can-8217-t-have-it-all/9020/1/ (“Let us presume, as I do with my sons, that they will understand ‘supporting their families’ to mean more than earning money.”).