HEAD OF THE HOUSEHOLD: HEGEMONIC MASCULINITY AND THE STATE

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INTRODUCTION
Gender is performative. Feminist legal scholars have endlessly analyzed women against this statement, while largely ignoring its implications on the gender performances of men. In this paper, I will attempt to bridge feminist legal scholarship with masculinities scholarship to lay bare the ways in which patriarchy simultaneously oppresses men while subordinating women. My goal, my hope, is that this connection between the theories will lead to greater coalition-building between men and women to bring about the end of state-sponsored patriarchy.

PART I: Performing Masculinity
“You may be born male, but that doesn’t make you manly. Maleness is the random result of biology, but manliness is the work product of vigorous self-fashioning: nature makes you male; to become manly, you must strive.” – John M. Kang

The performance of gender is not limited to the lives of women and queers. Heterosexual men perform their gender just like everyone else. However, masculinities research reveals that many men feel particularly unstable in their gender performance. This is because masculinity can never simply be attained; instead, a man must constantly and consistently prove his masculinity, he must pass each test of his manhood. And what it means to pass becomes all the more complicated depending on the audience. Men perform their masculinity for both other men

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* JD 2013 candidate at Harvard Law School.
1 Judith Butler, Undoing Gender 1 (2004) (describing gender as “an incessant activity performed”).
2 Please note that this paper is focusing on heterosexual men, not homosexual or queer men. I am aware that grouping all heterosexual men into one category is essentializing, and that the generalization will inevitably end up speaking mostly to white middle- and upper-class men. In my attempt to counteract this effect, I will take care to note instances where men of color or lower income men are affected differently than white, middle- or upper-class heterosexual men.
and women, and what it means to be a man differs based on who is watching.\(^5\) As opposed to women, men have a potential “downward mobility” because they can, in a sense, lose their masculinity.\(^6\) In culmination, the sense of constant performance, evaluation, and potential “loss” of masculinity results in individual feelings of anxiety and powerlessness.

This instability is partially a reaction to the feminist mantra that all men are dominant, powerful.\(^7\) Though this notion of dominance and power certainly predates the modern feminist movement, the constant repetition that all men are in positions of power undoubtedly makes some men believe they must be powerful, that they must embody dominance. This gender construction is better known as hegemonic masculinity.\(^8\)

Michael Kimmel partitions hegemonic masculinity into four tenets: “(1) denigrate contrast figures, such as women, (2) accrue tokens of success, (3) hold one’s emotions in check, (4) accrue tokens of success.”

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\(^5\) See Angela P. Harris, *Gender, Violence, Race, and Criminal Justice*, 52 STAN. L. REV. 777, 806 (2000) (citing an exchange between a reporter and a young heterosexual man from Laramie, WY where the young man describes how his reaction to a gay man making a pass at him would change based on who he was with: with a girl, he would be worried to “look queer”; with friends he “might have to threaten him”; and if alone, would let him buy him a drink after making it clear he was straight).

\(^6\) JANET HALLEY, *SPLIT DECISIONS: HOW AND WHY TO TAKE A BREAK FROM FEMINISM* 56 (2006).

\(^7\) See generally Catharine A. MacKinnon, *Difference and Dominance: On Sex Discrimination*, in FEMINISM UNMODIFIED 32 (1987) (criticizing the view of sex discrimination that categorizes women as different while ignoring the structurally-maintained, forceful dominance of men over women) [hereinafter MacKinnon, *Difference and Dominance*]; Robin L. West, *The Difference in Women’s Hedonic Lives: A Phenomenological Critique of Feminist Legal Theory*, 3 WIS. WOMEN’S L.J. 81 (1987) [hereinafter West, *Women’s Hedonic Lives*]; see also DOWD, supra note 4, at 2; id. at 31 (describing Michael Kimmel’s belief that “a definition of masculinity as striving for power comes from women’s perspective”) (citation omitted); HALLEY, supra note 6, at 319–20.

\(^8\) See DOWD, supra note 4, at 26; see also id. at 29 (defining hegemonic masculinity as “the configuration of gender practice which embodies the currently accepted answer to the problem of the legitimacy of patriarchy, which guarantees (or is taken to guarantee) the dominant position of men and the subordination of women”) (quoting R.W. Connell) (citation omitted). It is important to add that not all men benefit from hegemonic masculinity, if they benefit at all. Common factors related to whether one benefits from the scheme include race, class, and age. *Id.* at 29; see also Harris, supra note 5, at 780. In addition, hegemonic masculinity is but one type of masculinity men perform. See Harris, supra note 5, at 782–83 (“[T]he fact that men are divided by race, ethnicity, religion, class, and sexual orientation means that there is not just one kind of masculinity. Rather, theorists of masculinity speak of relations of alliance, dominance, and subordination among different sorts of masculinity.”). Harris adds that “though one way of doing masculinity may be ‘hegemonic’ (i.e., dominant) within a friendship network or a social institution, there may be many other ways of being a man that conflict, compete, or form a relationship of interdependence with the hegemonic form.” *Id.* at 783.
It comes as no surprise that feminist legal scholars have so significantly focused on the first tenet. Male denigration of women is a significant problem for most women as well as our sex as a whole, and understandably where our focus has been. However, many, if not most, feminist scholars have overlooked the other three tenets. Yet it is in those three tenets that we see the costs of hegemonic masculinity, the price for the privilege of dominance over women.

The last three tenets expose the fragility in masculinity, the costs for the privilege of dominance. Beginning with the second, men cannot ever succeed in accruing tokens of success; there will always be more to gain. This tenet speaks to Zillah Eisenstein’s “capitalist patriarchy.” Just like capitalism, being a man means there will always be more to achieve, so long you continue to work hard or learn to game the system. Since there will always be more to gain, there can never be true achievement.

The third tenet is the most psychologically troubling for men: keep your emotions in check. Boys are taught from a young age to reject the embrace of their mothers for the stoicism of their fathers. Boys are supposed to compete with other boys, to measure their worth by their successes on the battleground of the recess asphalt. However, boys still seek emotional connection, they desire being taken care of. The tension of this paradox only grows as boys become men, when they believe that to win a woman they need to compete as men, but to be in a relationship they need to be open and vulnerable. The learned detachment can certainly stunt

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9 See Frank Rudy Cooper, *Masculinities and Capitalism in the Wire*, in *Masculinities and the Law* 96, 101 (citing Michael Kimmel); see also Kimmel, *supra* note 4, at 105 (listing the four tenets in somewhat different language).
11 See DOWD, *supra* note 4, at 36.
12 See id. at 37–38.
relationships, but it can also cause tension when men try to lead double lives. While many men desire the intimacy of relationships, they are still performing their gender—proving their masculinity—in the private sphere, and the tension of doing both can boil over into violent behavior.

This potential for violence brings us into the final tenet: be aggressive. Men are taught that anger is an appropriate (perhaps the only appropriate) emotion to feel and express. Real men aren’t scared; they don’t run away from conflict, they fight. Male aggression is performed for and in front of other men, that is without a doubt, but also significantly performed for and in front of women. As opposed to the tension men experience in trying to be both a stoic man and an open, intimate partner, aggression is a trait that is expected and supported by both men and women. That is not to say that women wish for their partners to act violently towards them, but instead that our society promotes the idea that men are supposed to defend their woman’s honor by fighting for it. In addition, men fight for their own honor. This aggressive behavior has particularly negative consequences for racial minorities, who often perform at a hypermasculine level in order to reassert their dominance in a white dominated world.

Hegemonic masculinity is embodied in patriarchy. In one sense, patriarchy is the structural basis for our entire public sphere and marketplace, with (white) men on top and all others (women, queers, racial minorities, and the poor) subordinated. At the same time, it is a nested form of male dominance within the private sphere: a (one) man is the head of the family.

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13 “What is especially striking is the pattern of emotional openness and expressiveness for young boys, and the gradual suppression of emotion and empathy, which leads to a lifetime pattern of both same- and opposite-sex relationships being stunted.” *Id.* at 40.

14 *Cf.* Harris, *supra* note 5, at 784–85 (“[T]he dominant form of masculinity in American society stresses the importance of intellectual mastery, technological prowess, and the rationalized control of behavior (both one's own behavior and the behavior of others). Men denied access to this masculinity—because they are working class and take orders rather than give them, or because they lack the education and training to exhibit technological prowess—often resort to ‘hypermasculinity’ (the exaggerated exhibition of physical strength and personal aggression) in an attempt to gain social status.”).
In this regard, the state is able to promote patriarchy in at least two ways: structural safeguards for men in powerful marketplace positions, and the promotion of heterosexual marriage. In promoting male dominance, the state creates what R.W. Connell has termed the patriarchal dividend: “the benefit all men claim from their dominance in the gender order.”\(^{15}\) However, as explained earlier, hegemonic masculinity, and thus the patriarchal dividend, comes at a cost to men.\(^ {16}\) This paper will primarily focus on the costs associated with masculine performance in the private sphere.

PART II: The State’s Promotion of Marriage

“Women’s subordination and men’s subordination are intertwined in the system of male privilege.” – Nancy Dowd\(^ {17}\)

The state promotes marriage in order to achieve at least two distinct goals: male dominance through the reinforcement of traditional gender roles, and the privatization of dependency.\(^ {18}\) I will begin this Part by reflecting on how gender-neutral family law reforms have not effectuated changes for men, and how the promotion of marriage will only continue to seal men into performing traditional male roles. From there I will discuss one way in which the state promotes marriage, why the state does so, and how the coupling of constrained gender performance and marriage may cause male violence and emotional detachment between men and their families. Finally, I will elaborate on the ways in which we could focus on relationships

\(^{15}\) Cf. Dowd, supra note 4, at 29 (citing R.W. Connell).

\(^{16}\) Even though not all men meet the definition of dominance within hegemonic masculinity “most men benefit, reaping the patriarchal dividend even if they do not fulfill the definition.” Dowd, supra note 4, at 29 (citation omitted).

\(^{17}\) Id. at 5.

\(^{18}\) Cf. Brenda Cossman, Contesting Conservatisms, Family Feuds and the Privatization of Dependency, 13 Am. U. J. Gender Soc. Pol’y & L. 415, 420–39 (2005) (exploring how state regulations promote three visions of the family, all of which encourage the privatization of dependency, and one of which also champions marriage and the restoration of the traditional family); Mary Joe Frug, A Postmodern Feminist Legal Manifesto (An Unfinished Draft), 105 Harv. L. Rev. 1045, 1055 (1992) (describing how when a woman ties herself to a man, through marriage or through a pimp, “she typically becomes emotionally, financially, physically, and sexually dependent on and subordinate to a man”).
outside of marriage in order to transgress the state’s attempt to reinscribe traditional gender roles in the private sphere.

1. Gender neutralization of family law

The gender neutralization of family law came about from the efforts of (white, middle-class) women. It was their fight, and remains their victory. As Janet Halley points out, this shift was not truly gender neutral, instead often preferring women to men. For example, the legal system presumes that young children should spend substantially more time with their mothers than with their fathers, and the partnership theory of marriage has resulted in many states requiring an equitable division of property upon divorce. Halley terms this type of feminist control over certain areas of the law “governance feminism.”

The major problem with governance feminism is its fundamentally flawed triad: “women are injured, they do not cause any social harm, and men, who injure women, are immune from harm . . . .” There are problems of course with the first two tenets, as women are painted as victims with no agency. But focusing on the last prong, we see why men struggle so much in their relationships with feminists and feminism. Halley continues,

And the man, the subordinator, is understood to be immune from injury. He might have to give up his ill-gotten gains, make restitution, get his foot off our necks, learn to listen to a different voice, and so forth, but describing his suffering as a wrong done by, or even

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19 See Halley, supra note 6, at 20 (“In family law alone, feminism has scored numerous victories that prefer the wife to the husband and the mother to the father . . . .”).
20 See id.; see also Solangel Maldonado, Beyond Economic Fatherhood: Encouraging Divorced Fathers to Parent, 153 U. Pa. L. Rev. 921, 982 (2005) (“Courts’ apparent failure to enforce visitation has led many fathers to believe that the law does not value their relationships with their children outside of their financial contributions. Although government agencies are responsible for enforcement of child support orders, there is no similar streamlined enforcement mechanism for visitation.”).
21 See Halley, supra note 6, at 20.
22 See id.
23 Id. at 320. Halley adds, “Feminists often produce this triad as if it were feminism; and as if the three stakes were tied so tightly together that each requires assertion of the others.” Id.
as a social cost of, the assertion of women’s interests produces perhaps the most acute feminist resistance.\textsuperscript{24}

The truth, of course, is that men are victims too, just in a different way than women. Yet feminists refuse to hear this, refuse to see it, out of fear that recognizing men’s victimization will somehow distract us from the goal of helping women. Feminist governance has led us to ignore or simply overlook the ways in which men are harmed by state-fashioned patriarchal hierarchy, and, in doing so, has held us back. For it is only by exposing the truth to men that we can hope to form an alliance between men and women to effectuate real change that benefits both sexes.\textsuperscript{25}

We feminists have been so focused on the ways in which women are shaped by state regulation that we have overlooked the effects on men.\textsuperscript{26} In particular, we have failed to discover why family law’s deregulation of gender has not shifted gender norms for men as much as it has for women. One primary reason is that the goal of gender neutrality was for (white, middle-class) women to have a choice: stay at home or work in the labor market. Implicit in that choice is the baseline assumption that men will continue to provide for women in the ways we have come to expect, primarily as the wage earner.\textsuperscript{27} It is an oversight of feminist legal scholars that perpetuates the myth Halley seeks to reject, that only women are victims, and all men the perpetrators of that victimization. In truth, men are just as reflexively shaped by state regulation of gender norms, and thereby just as oppressed. In the context of family law, that oppression fashions itself as men’s presumed role of breadwinner above all else. Due to this oversight, state

\textsuperscript{24} Id.
\textsuperscript{25} See Kimmel, supra note 4, at 102–03.
\textsuperscript{26} See generally Frug, supra note 18 (focusing on the ways in which law constructs women and sex-differences by encoding the female body with various meanings).
\textsuperscript{27} I have borrowed this idea from both Rick Banks and Laura Rosenbury. See also HALLEY, supra note 6, at 320 (suggesting that men may suffer harm “as a wrong done by, or even as a social cost of, the assertion of women’s interests”).
deregulation of gender norms has effectively trapped men in traditional male gender roles as much as it trapped women during regulation.28

I could spend this time focusing on the reasons why we have made such a gaping oversight, why we feminists have positioned ourselves in such contradistinction from men. (Such as the MacKinnon “creation story” that men seized power, by force, on Day One and have been holding onto it for dear life ever since.) However, focusing on why is not going to get us over the hurdle, and instead I will shift now to the intersection between masculinities and feminist legal scholarship in order to demonstrate the ways in which men have been and continue to be constrained by patriarchy. My hope is that once men realize that they, just as women, have had someone’s (the state’s) foot on their necks, they will join women in the fight to end state-perpetuated patriarchal structures in our society.

2. State’s promotion of marriage

The state continues to promote marriage in spite of the gender-neutrality of family law. Ironically enough, it does so with the presumption that marriages continue to reflect traditional gender norms, and that the coming together of men and women in a family structure is the best possible solution to poverty.30 I will focus my discussion on the Temporary Assistance for Needy Families (TANF) program, which is created in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

28 See Kimmel, supra note 4, at 104–05 (arguing that the idea of how to be a man has remained unchanged because men did not position themselves for change or undergo a masculine revolution during the feminist revolution); cf. Jessica Knouse, Using Postmodern Feminist Legal Theory to Interrupt the Reinscription of Sex Stereotypes Through the Institution of Marriage, 16 HASTINGS WOMEN’S L.J. 159, 172 (“Although sex stereotypes have been almost entirely eradicated from the legal definition of marriage—at least with respect to anatomy, personality, behavior, and desires—they remain strong within the cultural definition of marriage. Therefore, although conformity is no longer legally mandated, it may still be culturally required.”).
29 MacKinnon, Difference and Dominance, supra note 7, at 40.
30 See Paula Roberts & Mark Greenberg, Marriage and the TANF Rules: A Discussion Paper, CENTER FOR LAW AND SOCIAL POLICY 3 (2005); cf. NANCY POLIKOFF, BEYOND (STRAIGHT AND GAY) MARRIAGE: VALUING ALL FAMILIES UNDER THE LAW 126 (2008) (“Many laws apply only to marriage because of marriage’s historically gendered nature; these stray far from their original purpose.”).
PRWORA begins with the following findings of fact:

1) Marriage is the foundation of a successful society. * * *
3) Promotion of responsible fatherhood and motherhood is integral to successful child rearing and the well-being of children. * * *
8) The negative consequences of an out-of-wedlock birth on the mother, the child, the family, and society are well documented . . . * * *
9) (H) The absence of a father in the life of a child has a negative effect on school performance and peer adjustment. * * *
10) Therefore, in light of this demonstration of the crisis in our Nation, it is the sense of the Congress that prevention of out-of-wedlock pregnancy and reduction in out-of-wedlock birth are very important Government interests and the policy contained in [section 103(a) of this Act] . . . is intended to address the crisis.31

Section 103(a) creates the TANF block grant program.32 Congress has explicitly stated that the purpose of TANF is to “end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage,” and to “encourage the formation and maintenance of two-parent families.”33 It is also worth noting that the state is promoting heterosexual marriages, as PRWORA is looking to end out-of-wedlock births while promoting responsible fatherhood and the presence of fathers in children’s lives.34

In order to succeed in these goals, Congress set aside hundreds of millions of dollars towards marriage promotion—under the banner “The Healthy Marriage Initiative”—within

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31 Personal Responsibility and Work Opportunity Reconciliation Act, Pub. L. No. 104-193, 110 Stat. 2105 (1996) (codified in scattered sections of 42 U.S.C.). It is important to note, however, that the state’s recognition of and promotion of marriage is often a self-fulfilling prophecy when it comes to the success of families and children. See Ruthan Robson, Compulsory Matrimony, in FEMINIST AND QUEER LEGAL THEORY: INTIMATE ENCOUNTERS, UNCOMFORTABLE CONVERSATIONS 313, 314 (Martha Albertson Fineman, Jack E. Jackson & Adam P. Romero, eds., 2009) (“It is important to remember that the state itself creates the conditions that allow the married to be wealthier and healthier, and therefore perhaps happier, through a legal regime that benefits and promotes marriage.”) [hereinafter INTIMATE ENCOUNTERS, UNCOMFORTABLE CONVERSATIONS].
33 Id. at § 401(a); see also Khiara M. Bridges, TANF and the End (Maybe?) of Poor Men, __ B.U. L. REV. __ (forthcoming 2013) (“When passing the PRWORA, Congress presented the lack of marriage, and the resultant necessity that mothers parent outside of the heteronormative family, as the reason why there are so many problems (one of them being the large size of the welfare state) in the United States.”).
communities receiving TANF funds. Under the initiative, states use community-based contractors to create programs including couples counseling, marriage education, marriage skills, and divorce reduction programs.

“If one regards just the marriage promotion piece of TANF, then the program would appear to be encouraging indigent women to become independent of the state by becoming dependent on a wage-earning man.” Implicit in this assumption is that husbands provide the financial backbone of a marriage. This stark truth can be found in the TANF eligibility rules themselves: a single-parent household is required to work 20 hours per week, whereas a two-parent household is required to work 35 hours per week, with no obligation that both parents work. Imagine you are a TANF-eligible single mother with a six-month old baby. Even though your baby is still breastfeeding (and it is unlikely you can afford formula given that you are on TANF), and even though there is no public child care, you need to work 20 hours each week or you will lose your support. Your other option is to reconcile with the child’s father, or

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35 Under the Bush administration, Congress set aside $150 million dollars annually. See Bridges, supra note 33, at 9; Emily Amick, Marrying Absurd: The Bush Administration’s Attempts to Encourage Marriage, THE NATION, February 27, 2007, available at http://www.thenation.com/article/marrying-absurd-bush-administrations-attempts-encourage-marriage# (noting that the Bush administration allocated $750 million to the Healthy Marriage Initiative for five years of marriage promotion). With a slightly different focus, the Obama administration has set aside $75 million per year for the Responsible Fatherhood program, which is to be spent on “activities promoting fatherhood, such as counseling, mentoring, marriage education, enhancing relationship skills, parenting, and activities to foster economic stability.” U.S. Department of Health and Human Services, “Promoting Responsible Fatherhood,” available at http://fatherhood.hhs.gov/2010initiative/index.shtml (last visited December 14, 2012). While these activities are not necessarily linked to marriage, they still promote a certain vision of what it is to be a father, and thus what it is to be a man.

36 See Bridges, supra note 33, at 8–9 (citing 42 U.S.C. § 603(a)(2)(A)(iii)).

37 Id. at 9.

38 States are free to exempt single parents with a child or children less than 12 months old from the work requirement, but for no longer than 12 months total. Pub. L. No. 104-193, § 407(b)(5). This exemption is not available for two-parent households, id., where one parent can serve as caregiver while another works.

39 Id. at § 407(c)(1).

40 Work can include job preparation courses that are also offered under TANF. What is relevant, however, is that the mother will have to spend 20 hours per week away from the home when she has an infant to care for.
find another man to marry, so that one of you can work while the other stays at home with the child.\textsuperscript{41} And we all know it will be the man who is working while the mother stays at home.\textsuperscript{42}

So why does the state promote marriage? The most basic answer is that the state is committed to the privatization of dependency.\textsuperscript{43} Fiscal conservatives believe this goal can and should be realized by promoting women’s economic role in the marketplace, while social conservatives argue that the best solution is to shift the responsibility from the state to the head of the household, the man.\textsuperscript{44} Congress adopted the social conservative view in 1996, and has been using TANF as a platform for marriage promotion ever since.\textsuperscript{45}

The next salient question is why is the state so committed to privatizing dependency? The fiscal reasons are self-evident, but there is more to it than that. According to Martha McCluskey, social conservatives believe that “public economic support for mothers’ caretaking of their children undermine[s] traditional male authority and male heterosexual pleasure and

\textsuperscript{41} Another option, of course, is using wider networks of care, like those described by Dorothy Roberts and Adrienne Rich. See Dorothy E. Roberts, \textit{Motherhood and Crime}, 79 IOWA L. REV. 95, 132–33 (1993) (describing the communal aspects of childrearing among black women) [hereinafter Roberts, \textit{Motherhood and Crime}]; see generally Adrienne Rich, \textit{Compulsory Heterosexuality and Lesbian Existence}, 5 SIGNS 631 (1980) (describing communities of care between women as the lesbian continuum). However, this option is not always available, or is not available for free and on a regular basis.

\textsuperscript{42} Outside of the social pressure women face to be good mothers, and thus stay home, there are many practical reasons a mother would stay home in lieu of a father, including the need to feed an infant every 2–3 hours, the physical recuperation of her body after childbirth, the higher earning potential of a man as compared to a woman, and so on. See \textit{also} Bridges, supra note 33, at 10 (“Gender realities as they are and as they have been historically, it is not illogical to assume that the statute presumes that the parent working in the labor market will be the male and the parent staying at home and caring for the kids will be the female.”); cf. Knouse, supra note 28, at 172 (“Although sex stereotypes have been almost entirely eradicated from the legal definition of marriage—at least with respect to anatomy, personality, behavior, and desires—they remain strong within the cultural definition of marriage. Therefore, although conformity is no longer legally mandated, it may still be culturally required.”).

\textsuperscript{43} See e.g., Cossman, supra note 18, at 421.

\textsuperscript{44} See id. 420–21. Social conservatives believe that the traditional family model will solve more problems than just ridding state fiscal responsibility for the provision of care to poor mothers. \textit{Id.} at 429 (“A host of social problems—rising crime rates, domestic violence, abortion, welfarism, child poverty, high risk behaviors—are ascribed to the decline of the traditional family. Social conservatives seek to reverse this decline by promoting marriage and traditional family forms.”).

\textsuperscript{45} As a quick survey of family law shows, the state offers many incentives for individuals to marry, including many financial benefits. “One of the reasons that the state initially got involved in sanctioning marriage was because it was a relationship of dependency—the state provided benefits to the man because he provided benefits for his dependent wife.” Knouse, supra note 28, at 175 n.66 (citation omitted).
If women have power it is depicted as “weak, deceptive, illegitimate, manipulative, controlling, undisciplined, oppressive, exceptional, or naïve” whereas men’s power is seen as “strong, self-satisfying, public-serving, protective, orderly, rational, and a normal exercise of individual freedom.” Thus, by promoting male power over the agency and power of women, the state “enhances rather than usurps private freedom and security in citizenship, market, and family.” Of course, this suggests that the social conservatives running Congress believe the opposite is true: if the state promotes women’s power and agency it does so at the cost of destabilizing our security in citizenship, market, and family.

The irony of this position is that social conservatives have, like feminists, focused solely on the first tenet of hegemonic masculinity. In doing so, they are presumably unaware of the ways in which this arrangement disadvantages men. I will discuss these costs in the next section of this Part.

**3. Marriage, hegemonic masculinity, and gender performance**

Through the promotion of marriage, the state secures male privilege, but at what cost? With men ruling their personal empires (with subordinated wife and children), they are free to enter the public sphere, the realm of male competition. And it is that realm which constrains men the most.

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47 Id. at 133.
48 Id. at 134.
49 See DOWD, note 4, at 29; cf. MacKinnon, *Difference and Dominance, supra* note 7, at 36 (“[V]irtually every quality that distinguishes men from women is already affirmatively compensated in this society.”). Catharine MacKinnon describes this state-sponsored male privilege as an affirmative action plan built into “the structure and values of American society.” MacKinnon, *Difference and Dominance, supra* note 7, at 36.
50 Cf. West, *Women’s Hedonic Lives, supra* note 7, at 112 (“Women, unlike men, live in a world with two sovereigns—the state, and men—and this is true not just some of the time but all of the time.”).
Michael Kimmel describes men as having group power but feeling individual powerlessness. Yet powerlessness and control can only be felt in relation to others, bringing us back to Butler’s theory that gender is performative. If being powerful is what it means to be a man, then men can only exist in relation to others, those less powerful, or powerless. The feminist view that men are powerful through their autonomy is thus inherently flawed.

Robin West’s view that “women’s lives are relational, not autonomous” implicitly posits that men, on the other hand, are autonomous individuals. West once wrote “More than do men, we [women] live in an interdependent and hierarchical natural web with others of varying degrees of strength.” While I will not argue with West on what constitutes “natural,” the suggestion that men do not exist within an interdependent and hierarchical web with others is blatantly incorrect. The truth is that men are constantly performing their gender for others, and, in the world of hegemonic masculinity, trying to secure dominance from the performance within an hierarchical scheme.

Since men perform their masculinity through competition with other men in the public sphere and marketplace, the logical assumption would be that the singularity of adult male presence in the private sphere, the family, would be the stabilizing feature of masculinity. But gender is always performative, and as masculinity comes to be defined in the marketplace, that vision of masculinity carries over into the private sphere, leading to instability in both realms.

a. The violent performance of masculinity

51 See DOWD, supra note 4, at 31 (citing Michael Kimmel); see also id. at 28 (“Ironically, men, although powerful and empowered as a group, feel powerless. Some men are indeed powerless; others are powerless because the demands of masculinity are that it must be constantly proven; it can never simply be achieved and claimed. It is easy to be a woman; it is a constant struggle to be a man.”).
52 Id. at 31.
53 See West, Women’s Hedonic Lives, supra note 7, at 141.
54 Id.
It is the pressure to constantly perform masculinity that leads to overconformity or hypermasculinization, often resulting in violence. Masculine performance is significantly linked to violence between men, intimate partner violence, and increased incarceration rates for men.

“The favorite emotion of men is anger . . . because that is an emotion that is allowed.”

At a young age, boys are taught to be men by suppressing their emotions and resisting dependency through the rejection of maternal affection. The path from boy to man ends in a model of masculinity focused on autonomy, separation, and a “masculine self.” Becoming and remaining a man is also about negatively defining oneself as not a woman and not gay. This world of developing masculinity is highly public, highly performative. During his development, “everything [a boy] does or thinks is judged on the basis of the strength or weakness it represents: you are either strong and worthwhile, or weak and worthless.”

Boys are taught to shun empathy and to seek isolation, but they continue to desire relatedness and intimacy. Yet the bonds of intimacy require vulnerability, a trait more akin to being a woman or gay. Thus, the concept of being in an intimate, vulnerable relationship with another human being is at all times fraught with tension. This tension lends itself to the pressure of masculine performance, which can come in the form of violence, both as a release of tension and as a performance of masculinity in and of itself.

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55 Dowd, supra note 4, at 37 (citing Pollack).
56 See id. at 35. It is important to add that fathers do not emotionally replace this rejected relationship with the mother. Id. at 40.
57 Id. at 36.
58 See e.g., Harris, supra note 5, at 780; Dowd, supra note 4, at 26; Kimmel, supra note 4, at 108.
59 Dowd, supra note 4, at 41 (quoting Kindlon) (citation omitted).
60 Dowd, supra note 4, at 37 (citing Pollack).
61 See Harris, supra note 5, at 780 (“[V]iolent acts committed by men, whether these acts break the law or are designed to uphold it, are often a way of demonstrating the perpetrator's manhood.”).
Unsurprisingly, boys and men are disproportionately involved in violent and criminal behavior as compared to girls and women. In addition to the constant pressure not to be women and “faggots”, this violent behavior takes on a race and class component when “[m]en disempowered by racial or class status develop alternative rebellious ways of proving their manhood . . .” Overall, “[t]he instability of masculine identity in the face of all these pressures makes violence in defense of self-identity a constant possibility.”

Men are also violent because they feel a lack of control, a sense of powerlessness that can only be overcome by a physical showing of strength. This sense of powerless comes about from men feeling they must constantly defend their masculinity to women and other men: “their gender identity, crucial to their psychological sense of wholeness, is constantly in doubt.” If men are feeling a constant sense of powerlessness in their gender performance, it is to be expected that a violent reaction to exert control will follow.

Male violence comes in many forms. There is violence between men, throwing fists and seeing who retreats first, the most basic form of proving you’re a real man. There is intimate partner violence, which can be attributed to the need to exert control in the one arena where there should be no male competition for dominance, as well as the reaction to feeling a woman has questioned your masculinity in a realm where your dominant position is not supposed to be in question. And there is self-inflicted violence, which takes ultimate form in suicide. I will focus on intimate partner violence.

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62 See DOWD, supra note 4, at 35, 43; Harris, supra note 5, at 782 (“The literature on ‘masculinities’ suggests that men are disproportionately violent, at least in part, because being violent is one socially recognized way of being a man.”); see also Christy Wampole, Guns and the Decline of the Young Man, N.Y. Times, Dec. 17, 2012, http://opinionator.blogs.nytimes.com/2012/12/17/guns-and-the-decline-of-the-young-man/?hp (discussing the phenomenon that men, not women, commit large-scale massacres, in connection with the Newtown school shootings).

63 See Harris, supra note 5, at 780.

64 Id. at 780.

65 Id. at 788.
Looking through the lens of intimate partner violence, the state’s promotion of marriage comes at the price of harm to men, women, and children. Men face many pressures to perform their gender in the private sphere, as breadwinners and “head of household” decisionmakers, and in the public sphere, in competition with others in the workforce. Violence from this pressure may ensue from multiple avenues. For one, it can be a culmination of the pressure to perform masculinity in the labor market with no source of release for the tension. Another, more commonly cited reason for intimate partner violence is that the man feels pressure to exert control over a wife who defies his ultimate authority through sexual humiliation, refusing to follow orders, and threats of leaving. In spite of the potential for violence, the state continues to promote marriage, including reconciliation between single mothers and their child’s father.

Of course, men who release the tension through violence expose themselves to incarceration. The chance of incarceration is ultimately higher among minorities and lower-

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66 See id. at 789 (“Ordinarily law-abiding and peaceful men may find themselves committing violent criminal acts when (in public settings) their manhood is threatened by conflict with other men or when (in private settings) women threaten to reveal them as sexually inadequate, fail to submit to their patriarchal authority, or threaten to leave them. In these situations, the potential loss of masculinity brings shame and humiliation, and the man who finds these emotions intolerable may turn them into rage and act violently in expression of that rage.”); id. at 790–91 (describing how male rapists may view themselves as the “humiliated victims of female sexual power” and how men who batter their partners may do so “to establish and maintain male dominance”); cf. Diana Marjury, Refashioning the Unfashionable: Claiming Lesbian Identities in the Legal Context, 7 CAN. J. WOMEN & L. 286, 311 (1994) (“Male sexual violence against women is a reflection of, as well as a function of, the deeply rooted connections between gender inequality, sex and sexuality.”).

67 The state cannot claim to be ignorant of these concerns. Some single mothers who receive TANF benefits state that they fear violence from the noncustodial parent. See OFFICE OF INSPECTOR GENERAL, CLIENT COOPERATION WITH CHILD SUPPORT ENFORCEMENT: CHALLENGES AND STRATEGIES TO IMPROVEMENT 6 (2000) [hereinafter CLIENT COOPERATION WITH CHILD SUPPORT ENFORCEMENT]; Daniel L. Hatcher, Don’t Forget Dad: Addressing Women’s Poverty by Rethinking Forced and Outdated Child Support Policies, 20 AM. U. J. GENDER SOC. POL’Y & L. 775, 782 (2012). Yet women who are not interested in remarrying are considered irrational, in spite of these misgivings. See Bridges, supra note 33, at 12–13 (“TANF offers that the indigent women electing not to marry are making entirely irrational choices not to marry. Presently unmarried, they are mired in poverty, living off of the government dole. Marriage, however, almost promises them freedom from indigence. Nevertheless, they remain unmarried.”).

68 Some masculinities scholars offer an interesting way to view incarceration and masculinity: “[A]ll men and boys on the outside benefit from the perception that all men are dangerous. And yet, men and boys who are not incarcerated do not pay the price of dangerousness that is paid by those in the juvenile and adult criminal systems.” Nancy E. Dowd, et al., Feminist Legal Theory Meets Masculinities Theory, in MASCULINITIES AND THE LAW 25, 32.
class men.\textsuperscript{69} In fact, one could argue that white men, as a group, benefit from the incarceration of black men and impoverished men because as a group men benefit from the perception that they are dangerous.\textsuperscript{70} Yet middle- and upper-class white men benefit without the cost of detention, thereby maintaining their race privilege as well as gender dominance.\textsuperscript{71}

Overall, the state’s promotion of marriage comes at the cost of forcing men into relationships that could exacerbate a psychological tension in the pressure for men to perform their masculinity while exposing themselves to intimate relationships, all of which could lead to violence against women, other men, and serious legal ramifications.

\begin{itemize}
\item \textit{b. The emotional detachment of masculinity}
\end{itemize}

Our society has constructed the dominant form of masculinity in conjunction with capitalism, a hierarchical scheme where worth, and thus masculinity, is measured in earning power.\textsuperscript{72} The promotion of marriage is significantly linked to the view that men will continue to play the role of wage earner to the financially dependent woman and children at home.\textsuperscript{73} In promoting and thus constructing this role for men, the state has effectively constrained men’s choice such that, in entering a marriage, men are presumed to become financial providers—or ATMs—for their families.\textsuperscript{74} If men fail at financially providing for their families, the result may be a fatalistic view of self where men are unable to psychologically overcome the daunting statistics against them, especially the lower-income men whose families are on TANF.\textsuperscript{75}

\textsuperscript{69} See id.; \textit{DOWD, supra} note 4, at 48.
\textsuperscript{70} See Dowd, et al., \textit{supra} note 68, at 32.
\textsuperscript{71} See id. at 32.
\textsuperscript{72} See Eisenstein, \textit{supra} note 10, at 114 (coining the phrase “capitalist patriarchy” to describe the interdependence of patriarchy and capitalism).
\textsuperscript{73} See generally Cosman, \textit{supra} note 18, at 415 (defining and describing the social conservative view of privatization of dependency as a return to the traditional family model of husband and father as breadwinner).
\textsuperscript{74} Cf. generally Maldonado, \textit{supra} note 20 (describing men as ATMs in the legal construction of divorced fathers’ role as financial providers above all else).
\textsuperscript{75} See Hatcher, \textit{supra} note 67, at 796. Joan Williams also argues that the role of economic provider itself could produce anxiety such that anxiety becomes a permanent mark of masculinity. \textit{JOAN WILLIAMS, UNBENDING GENDER: WHY FAMILY AND WORK CONFLICT AND WHAT TO DO ABOUT IT} 26 (2000) (“As men’s breadwinner status
TANF illuminates and reinforces this view of the man as ATM in its requirement that a single mother provide the name of her child’s father so that the state can collect child support payments.\textsuperscript{76} The payments do not go to the mother, but instead go directly to the state to reimburse the outlay of TANF benefits.\textsuperscript{77} Thus, the state holds men to the standard of economic providers in lieu of the state, versus in addition to the state’s provision of resources. In addition, if the woman marries a new man, the state will effectively relegate two men to the role of breadwinner: the new husband as family provider and the child’s father as state reimbursing. This regulatory scheme is often referred to as the privatization of dependency.

In privatizing dependency, the state constrains men’s choice while also reinforcing the emotional detachment that plagues men. If men feel like ATMs, they will likely delegate to the wife the role of emotional or spiritual leader of the household.\textsuperscript{78} How quintessential is the view that men provide for their families by earning money in the labor force, and women handle all other aspects of the household, including its emotional wellbeing? In addition, for separated individuals who have children, the unrelenting enforcement of child support orders coupled with both the presumption that women get full custody of children and the under enforcement of father’s visitation orders renders men nothing more but ATMs to their children.\textsuperscript{79} Even just the perception of bias against fathers can have an emotional chilling effect.\textsuperscript{80}

\textsuperscript{76} CLIENT COOPERATION WITH CHILD SUPPORT ENFORCEMENT, supra note 67, at 7, 16.
\textsuperscript{77} See Hatcher, supra note 67, at 776.
\textsuperscript{78} Cf. generally Dorothy E. Roberts, Spiritual and Menial Housework, 9 YALE J.L. & FEMINISM 51 (1997) (distinguishing spiritual from menial housework based on race, where the roles are both performed by women).
\textsuperscript{79} See generally Maldonado, supra note 20 (describing how “relegating [men] to the role of economic providers and little else” discourages men from other forms of parental involvement post-divorce); see also Hatcher, supra note 67, at 786 (“Although an increased effort of the child welfare system to engage with absent fathers is evident, the child support requirements can cause the opposite effect.”).
\textsuperscript{80} See Maldonado, supra note 20, at 975.
Forcing onto men the role of economic provider could result in other undesired effects, including a decrease in informal support and a dangerous level of economic instability. First, a man may feel resentful towards the child’s mother for giving up his name to the state, and this may result in lessened efforts to provide informal support or in-kind support to the child and mother.\textsuperscript{81} In addition, many of the men who would be forced to pay child support under TANF are likely to work low-paying jobs. Garnishing their paychecks could undermine efforts to achieve economic stability, which notably has a more significant impact on minorities.\textsuperscript{82} This can have a particularly salient effect on black men, whose masculinity “is especially linked to economic success by any means necessary.”\textsuperscript{83} This threat may result in men, especially black men, leaving the “above-ground” economy to avoid wage-stripping.\textsuperscript{84} Ultimately, these men, whatever their race, “are more likely to engage in criminal activities, less likely to receive medical care, less likely to pay taxes, less likely to pay child support, and less likely to have a positive relationship with the mothers of their children.”\textsuperscript{85}

The state’s promotion of marriage also reinforces women’s performance of traditional gender roles, and thereby further reinforces the patriarchal model. TANF’s funding came about from the influence of what Brenda Cossman terms “social conservatism”, a position that a return to the traditional family with its traditional gender roles will better serve society and end

\textsuperscript{81} See Hatcher, \textit{supra} note 67, at 783; Client Cooperation with Child Support Enforcement, \textit{supra} note 67, at 7 (“[M]any noncustodial parents provide informal financial support to their children, or in-kind support such as child care services, and may spend at least some time living in the client’s home or visiting their children. If noncustodial parents are required to pay child support through the formal system, the family may actually be worse off because the noncustodial parent may cease informal or in-kind support.”).

\textsuperscript{82} Hatcher, \textit{supra} note 67, at 783.

\textsuperscript{83} Cooper, \textit{supra} note 9, at 106.

\textsuperscript{84} See Hatcher, \textit{supra} note 67, at 784; Cooper, \textit{supra} note 9, at 106 (“[C]apitalism and racism combine to create the alienation that leads young men to become drug dealers.”).

\textsuperscript{85} Hatcher, \textit{supra} note 67, at 784.
Beyond social conservatism, in the social scheme more broadly, women are rarely viewed as unfit parents for failing to be employed, whereas unemployed fathers are presumed to be deadbeats. Instead, we adopt the view that women are caregivers, and thus can choose either to work while raising children or to leave that job to the man, who has no choice. Even more salient, sometimes single mothers are penalized for working outside of the home, as this is the man’s role.

The role that women fill in the household inevitably supports men’s entrance and success in the labor force, thereby undermining both women and men who wish to escape Zillah Eisenstein’s capitalist patriarchy. Eisenstein theorizes that women’s domestic work, i.e. the performance of their traditional gender role, perpetuates patriarchy. For one, this arrangement profits all individual men who benefit from women’s household labor. On a larger scale, it benefits the entire society by subsidizing the costs of housework and childcare. Ironically enough, Eisenstein uses the word “stabilize” to describe women’s effect on the patriarchal structure, even though the effect on individual men is the constant reiteration of masculinity that generates ongoing instability. However, she is correct, women do stabilize patriarchy; the

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86 See Cossman, supra note 18, at 435–36 (“Social conservatives believe that family breakdown and its resulting moral decay has been caused by the nature of the extensive state intervention in the private spheres of the family and the economy. Accordingly, the answer for social conservatives is simple: strengthen the traditional family, and its traditional, hierarchical gender roles.”).
87 See Maldonado, supra note 20, at 969 (“Although the mother was not herself employed, the father was penalized for failing to conform to the norm of economic fatherhood—the expectation that fathers, but not necessarily mothers, will always be economic providers.”).
88 See id. at 970.
90 Eisenstein, supra note 10, at 137 (“All men, regardless of class, benefit, although differentially, from the system of privileges they acquire within patriarchal society.”).
91 Martha Albertson Fineman, Cracking the Foundational Myths: Independence, Autonomy, and Self-Sufficiency, 8 AM. U. J. GENDER SOC. POL’Y & L. 13, 19 (1999) (“The uncompensated labor of caretakers is an unrecognized subsidy, not only to the individuals who directly receive it, but more significantly, to the entire society.”).
92 Eisenstein, supra note 10, at 136.
93 This notion supports the idea that men as a group are powerful and benefit from the state’s promotion of patriarchy, even though individual men may feel powerless and reap few if any advantages.
same actions or iterations of gender performance that stabilize patriarchy simply also lead to the iterations of masculinity that cause men to feel powerless.

4. Healthy masculinity outside of marriage
   The state’s promotion of marriage comes at the expense of men’s ability to form relationships of care outside of the marriage context. When men marry women, they become, in one sense, a recipient or a beneficiary of care. Wives serve the emotional, sexual, childrearing, and housekeeping needs of their husbands. While this certainly benefits individual men in many ways, it can also result in men foregoing other relationships of care, including friendships with other men outside the confines of the competitive structure of hegemonic masculinity.

Laura Rosenbury argues that if the state legally recognized friendship in addition to marriage, currently limited views of male friendship could be transformed. Men might become less competitive with other men, or less superficial, to the point where emotional connections are developed. Additionally, if the state recognized friendships, emotional connections would not

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94 But see Laura A. Rosenbury, Work Wives [forthcoming 2012] (describing the ways in which men and women create and define caring relationships in the workplace, though these relationships of based on the marriage construction).
96 See e.g., Catharine A. Mackinnon, Consciousness Raising, in TOWARD A FEMINIST THEORY OF THE STATE 83, 93 (1989) (describing the many advantages men derive from their relationships with women, “including being served and kept in mind, supported and sustained, [and] having their children cared for and their sexual needs catered to”); see also Rosenbury, Friends with Benefits, supra note 95, at 191 (“[E]xtensive amounts of care are expected in marriages, and women are still more likely than men to be the primary providers of that care.”).
97 See Rosenbury, Friends with Benefits, supra note 95, at 237 (“For example, married men could view friendship outside of business or civic associations as unnecessary given the care they receive within marriage.”); see also DOWD, supra note 4, at 28 (“The boundaries placed on men are significant, and the expectations to meet dominant norms disserve men in relationships with both women and men.”).
98 Rosenbury, Friends with Benefits, supra note 95, at 238.
99 Id.
always be linked to sex, as they currently are in marriage. In turn, men’s relationships with other men would not necessarily signal a homoerotic connection that is forcefully shunned by the dominance standard of masculinity.

It is important to note that forging emotional connections between men may be particularly hard for African American men. “[B]lack masculinity is characterized by hypermasculinity, constructed in defense of the fear of black men and the denial of black men’s personhood . . . .” This hypermasculinity leads to “strong homophobia” which has a “deterrent effect on relationships of affection between black men.” This theory suggests that black men may have a more difficult time developing relationships of care with other men, even if friendships were recognized by the state. Overall, hypermasculinity creates obstacles that may render Rosenbury’s theory less salient in the black community. Noting this challenge, it is still important to discuss the advantages of creating relationships of care between men.

While I am not arguing that the state should legally recognize friendship, what is relevant here are the ways in which the expansion of male friendships would benefit both men and women. Men would inevitably feel more stability in their everyday lives, with greater connections of care coupled with less anxiety about the performance of their masculinity. This shift would also lead to fewer instances of violence insofar as violence is a form of hegemonic masculine expression and tension release. Women would also benefit. As a direct and immediate result, women may experience less intimate partner violence from the hands of their husbands. In addition, wives might feel less pressure to be the primary or sole care providers to

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100 Id.
101 See id. at 237 (“[B]ecause of the connection between care and the sexual relationship of marriage, straight men could view robust friendships with other men as potentially impugning their sexual orientation or masculinity.”).
102 DOWD, supra note 4, at 47 (summarizing Elijah Ward’s theory).
103 Id. (summarizing Elijah Ward’s theory).
104 Cf. Kimmel, supra note 4, at 113–14 (describing how rates of rape are lowest in countries where women can hold private property and have careers, and men are actively involved in childrearing, or “public fatherhood”).
their husbands. On a structural scale, the expansion of men’s friendships with other men could make a significant impact on diminishing the prevalence of hegemonic masculinity and the dominance of patriarchy.

Diminishing the importance of the role of marriage would also likely expand our communities of care. While Adrienne Rich writes about the lesbian continuum and Dorothy Roberts speaks of the communities of support between black women, the idea of a community of care could evolve into one between people of any gender or race. These communities would form mutually supportive bonds between individuals and groups, thereby reducing the programmed feeling that competition and dominance are the foundations of manhood. While I understand that these communities of care are harder to come by for men—the premise of hegemonic masculinity being dominating others through competition and emotional detachment—one solution could be for men and women to be involved in the same communities of care together. While Laura Kessler writes about men’s care work as “transgressive caregiving,” my hope is that once men become more invested in these communities, the care will no longer be considered transgressive.

We should also dismantle hegemonic masculinity because competitive behavior is inherently lonely. As Drucilla Cornell puts it, “pleas to be heard only sound like pleas of weakness because of the way that advanced capitalism, which identifies competition of interest

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105 See Rosenbury, *Friends with Benefits*, supra note 95, at 238.
106 See generally Rich, * supra note 41* (describing communities of care between women as the lesbian continuum).
108 For an application of this theory to the ways in which communal support can effectuate change for black mothers, see id. at 132 (“Black women historically have practiced mothering in a way that overcomes some of the burdens of motherhood and holds the potential for the collective transformative action of mothers.”).
110 Cf. Maldonado, * supra note 20*, at 970 (“[S]ome courts give disproportionate weight to any parenting tasks that fathers assume while simply expecting those same activities of mothers.”).
as freedom, throws each individual more and more back on himself. We lose ways to sustain each other, to resonate with each other.”  

Returning to Eisenstein’s theory that masculinity is inherently entwined with capitalism, the logical conclusion is that being a man is inherently lonely. The best way to combat this loneliness is for men (and women) to form more meaningful and diverse relationships outside the context of marriage.

PART III: Feminism and Men

“Perhaps the most essential problem of men’s liberation is getting men to understand themselves individually as victims of sexual inequality without losing sight of why they are the collective oppressors of women.” – Don Sabo

1. Reinventing masculinity

If we do not want men to fit into the dominant, hegemonic model, what will being a man look like? There are a lot of ways to answer this question, so I will start where I began, with Judith Butler and the performance of gender.

All people want, perhaps need, to be recognized. “[D]esire is always a desire for recognition and . . . it is only through the experience of recognition that any of us becomes constituted as socially viable beings.” To lack social recognition is to lead an unlivable life. Simply saying that being a man should mean not buying into hegemonic masculinity does not help men understand how to perform their gender in a socially recognizable way.

Some scholars, especially queer theorists, might argue that this void is exactly what we want, so that each man can construct for himself how to perform his masculinity. However, we’ve already seen how deregulating gender does not change gender norms. Just look at the gender neutralization of family law. Women changed the most, not men, because they were the

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112 DOWD, *supra* note 4, at 34.
113 BUTLER, *supra* note 1, at 2 (describing the Hegelian tradition that links desire with recognition).
114 See id. But it is also important to think about whether conforming for the sake of recognition could also result in an unlivable life. See id. at 4.
ones who recognized a need for change and who fought for gender neutrality so that they could choose how they performed their gender in their private lives. Women were aware of the constraints gender placed on them, and did not benefit from those constraints in the way that men continue to benefit from the patriarchal dividend. Yet, for men it’s another story. They are largely unaware of how they benefit from the patriarchal dividend, or else they are ignorant of its costs.115 So the big question becomes how do we make men aware of both the structural benefits they receive by virtue of being men, and all of the costs of this dividend?116

Even if we could answer that question, another significant element of gender performance is the audience for whom gender is performed. This element is a complex one, because it means that even men who are aware of the constraints of hegemonic masculinity are still performing their gender for people who believe that being a man is wound up in hierarchical dominance. Knowing society’s perceptions may lead to men choosing to perform their masculinity in the ways in which they k now will lead to success.117 For the men who do change their gender performance, the acknowledgement of the change may undermine their actions by making them feel transgressive in each iteration. This could lead to anxiety, stress, or other tensions, and the purpose of undoing hegemonic masculinity was to escape those costs.118

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115 See DOWD, supra note 4, at 61 (“The patriarchal dividend is so pervasive that is goes largely unnoticed; it is taken-for-granted oppression.”).
116 For a better articulation of the problem, see id. at 60. According to Dowd, “Dismantling male privilege means understanding how it is constructed. Intersectionality suggests how men remain committed to and supportive of male privilege even when they do not benefit from the most favored male position. Hegemony importantly includes the concept that those who are subordinated may be complicit in the structure of hierarchy.” Id.
117 A comparator for women are women who act ultra-feminine (coy, flirtatious, giggly) with coworkers, supervisors, or clients simply because they know those individuals will respond more positively to them for conforming to traditional gender norms.
118 Joseph Pleck theorizes that “violation of gender roles leads to condemnation and negative psychological consequences . . . .” DOWD, supra note 4, at 37 (citing Joseph Pleck).
Though “[n]orms do not exercise a final or fatalistic control,”\(^{119}\) they certainly exact pressure and there is always a cost in pushing back against a norm. For example, some scholars seem perplexed that racial minorities do not push back more against hegemonic masculinity, which tends to keep white men in positions of power at the expense of minorities, predominately black and Latino men.\(^{120}\) But so long as hegemonic masculinity is the predominant model for success, it seems unlikely that racial minorities will spontaneously choose to reject that model simply through deregulation of gender norms. For what will the rejection achieve? If anything, what we’ve seen in society is that the more a minority acts like a white man, the greater his success.\(^{121}\)

Changing what it means to be a man will not be easy. First, we need to make men aware of the costs associated with their group power: the never ending competition between men, the tension between emotional detachment and intimacy, and aggression that can lead to physical, psychological, and legal harm. Second, we need to replace hegemonic masculinity with a greater range of options for what it means to be a man, the way we have with women. Some may say that we have already done this, that mainstream media and at least large liberal enclaves have rejected hegemonic masculinity, and thus patriarchy. But again, this rejection will not, on its own, bring an end to patriarchy: “Patriarchy has not collapsed; only the idea or acceptance of it

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\(^{119}\) BUTLER, supra note 1, at 15.

\(^{120}\) See e.g., DOWD, supra note 4, at 60 (“One of the most interesting patterns from men of color is the potential they open up for a different model or models of masculinity, while at the same time displaying a hypermasculinity in response to the denial of privilege.”); cf. Harris, supra note 5, at 784 (discussing the ways in which men of color may perform their masculinity differently to subvert racial stereotypes).

\(^{121}\) See Devon W. Carbado, Masculinity by Law, in MASCULINITIES AND THE LAW, 51, 66–67 (discussing how men of color more often succeed in race discrimination lawsuits if they look and act like white men); cf. Harris, supra note 5, at 784 (“Building on and subverting racist stereotypes, working-class and poor black men may aspire to a masculinity that emphasizes physical strength, mental control, and sexual prowess. Or they may aspire to a masculinity of physical grace, personal style, and creative artistry. At the material level, these alternative ways of being a man remain marginal: White men's greater control over political, economic, and social resources and their tighter grip on dominance remain.”).
has; men’s predominance remains.”\textsuperscript{122} Men still receive the patriarchal dividend, even if they outwardly eschew it. One reason is that male dominance is built into our system, our social and legal structure.

On an individual level, changing what it means to be a man loses salience for men whose manhood is centered on rites of passage. If we wipe away the current markers of manhood,\textsuperscript{123} what will it mean to call yourself a “man”? Though many of these markers have been eroded over time due to other changes in our society, it may become very difficult for males to self-identify as men if they feel there are no markers for identification. So the question becomes, do we need something with which to replace hegemonic masculinity, and if so, what is it?

2. Men as feminists

If men realize that they pay a price for the privilege of being male, it may help forge a much needed alliance between men and feminism. The solution to feminism’s stall is in men, for only when we make men aware of the costs of hegemonic masculinity will they begin to fight for gender equality. And let’s face it, formal equality theory—the sex-equality approach adopted by the Supreme Court—has already done all it can for women, and, some would argue, has sometimes reconstituted and constrained women into performing a female version of hegemonic masculinity. Until we rid ourselves of the idea that dominance is the standard of success, most individuals, both men and women, will lead unfulfilled lives, never able to achieve all of their aspirations because they are taught to aspire to a model defined by exclusivity and instability.

The patriarchal dividend is so pervasive and so established that it seems unimaginable that men would ever work towards its undoing, even if its undoing promises to make them happier and healthier individuals. However, we are beginning to see inklings of unease among (liberal, educated, white middle-class) men, those men who want to spend more time at home

\textsuperscript{122} Dowd, supra note 4, at 61.
\textsuperscript{123} For example, having a steady job, owning a home house, and having a family.
and less in the office, who view success as a balance between caring relationships and earning potential. I feel confident in saying these men self-identify as feminists. They see the ways in which feminism and deconstructing hegemonic masculinity can and do go hand in hand.

While these men are making much progress in their smaller enclaves, redefining what it means to be a man in a large, liberal city and within certain careers, what the rest of America’s men need is a male revolution. Like women, one place for men to start would be the workplace. Whereas women first had to fight for entrance before seeking the flexibility necessary to also take care of their families, all men have left to do is fight for equal access to caregiving. This fight seems easy enough, but many men face pressure at work to let their wives take care of their families while they tend to their careers, lest they appear uncommitted to the latter. Thus, we need to change what commitment looks like, or, if we cannot succeed here, we must seek out a new vision of success altogether. Men’s achievement in bringing about these changes will lead to better, more balanced lives for both men and women.

This shift in the workplace will inevitably bring about a change in the private sphere. With men spending less time at work, women will comparatively achieve more in their careers. As for men, they can finally escape the requisite roles of breadwinner and pillar of stoic strength. As they spend more time at home, they will inevitably take on more caregiving roles, thereby shedding the pervasive view that men are emotionally detached from their families. These men will serve as role models to their sons, who, in emulating their fathers, will no longer strive to be purely autonomous and emotionally shunning. These men will also feel less pressure to perform their masculinity through aggression, since anger will no longer be their only acceptable emotion. This shift will subsequently lead to a decrease in violent behavior, including intimate

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124 See Kimmel, supra note 4, at 112–13.
partner violence and violence between men. Finally, this decline in aggressive and violent behavior will have a direct effect on incarceration rates.

While there is a lot of work to be done to make these structural changes, the work cannot begin before men get involved in the feminist movement. In this day and age, we are finally at a place where governance feminism can and should transform from a program of putting women ahead of men to one where men’s and women’s interests are both taken into account. Yet the only way in which this transformation will advance both women and men is to culturally shift what it means to be a man, to change the end goal. When women and men share the goal, when both sexes want the ability, the freedom, to have a place in the public sphere while maintaining healthy and fulfilling relationships in the private, we will be able to effectuate real change. What we need now is to get men on board.

While I do not believe this will be an easy task, I write this paper as a call to all feminists to start contemplating the ways in which we can think about feminism through the lens of the men who do not excel within the dominance framework. So long as feminism maintains an “us versus them” mentality, men will defend their position of dominance with vigor. To achieve equality, we must start rethinking the Catharine MacKinnon dominance (men)/subordination (women) structure. I hope to shed light on the fact that only few dominate while many remain subordinated, and all of those subordinated, men and women, need to stand together.