

ASKING THE MAN QUESTION: MASCULINITIES ANALYSIS AND FEMINIST THEORY

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Masculinities scholarship is an essential piece of feminist analysis and of critical equality analysis. It requires that we “ask the man question” to further unravel inequalities.¹ A decade ago Angela Harris urged legal scholars to ask the “man question”² by exposing the masculinities present in the brutal sodomization of Abner Louima, a Haitian immigrant, by white police officers while Louima was in police custody.³ To many, race alone explained what had occurred in the Louima case. Failure to recognize how masculinities infused that incident as well, Harris argued, would ratify and condone male on male violence, hypermasculinity in police culture, and the racial hierarchy of masculinities present in the incident.⁴ In the decade since Harris’s analysis, much work has been done in masculinities scholarship, but few legal scholars have brought this perspective into the mainstream of critical legal scholarship.⁵ This symposium marks one of several movements toward examining and considering what masculinities scholarship can offer.

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¹ This essay is grounded in my forthcoming book, NANCY E. DOWD, *THE MAN QUESTION: MALE PRIVILEGE AND SUBORDINATION* (forthcoming Aug. 2010) (manuscript on file with author) [hereinafter DOWD, *THE MAN QUESTION*] and my prior article, *Masculinities and Feminist Legal Theory*, 23 WIS. J.L. GENDER & SOC’Y 201 (2008) [hereinafter Dowd, *Masculinities and Feminist Legal Theory*]. Asking the “man question” means simply to ask “What is the position of boys and/or men in this situation?” Implicit in this question should be a second question, “Does this apply to all boys and/or men, or only to some, or does it affect different men differently?”

² Angela P. Harris, *Gender, Violence, Race, and Criminal Justice*, 52 STAN. L. REV. 777 (2000).

³ *Id.*

⁴ *Id.*

⁵ See Richard Collier, *Masculinities, Law, and Personal Life: Towards a New Framework for Understanding Men, Law, and Gender*, 33 HARV. J.L. & GENDER 431 (2010); Ann C. McGinley, *Babes and Beefcake: Exclusive Hiring Arrangements and Sexy Dress Codes*, 14 DUKE J. GENDER L. & POL’Y 257 (2007); Ann C. McGinley, *Masculinities at Work*, 83 OR. L. REV. 359 (2004). For a sampling of work on masculinities or work focusing on men as subjects, see, for example, Frank Rudy Cooper, *Against Bipolar Black Masculinity: Intersectionality, Assimilation, Identity Performance, and Hierarchy*, 39 U.C. DAVIS L. REV. 853 (2006); Gail Dines, *The White Man’s Burden: Gonzo Pornography and the Construction of Black Masculinity*, 18 YALE J.L. & FEMINISM 283 (2006); Anna Gavanoas, *Domesticating Masculinity and Masculinizing Domesticity in Contemporary U.S. Fatherhood Politics*, 11 SOC. POL. 247 (2004); Olga Giller, *Patriarchy on Lockdown: Deliberate Indifference and Male Prison Rape*, 10 CARDOZO WOMEN’S L.J. 659 (2004); Raymond Gunn, *Inner-City “Schoolboy” Life*, 595 ANNALS AM. ACAD. POL. & SOC. SCI. 63 (2004); Fadi Hanna, *Punishing Masculinity in Gay Asylum Claims*, 114 YALE L.J. 913 (2005); Joan W. Howarth, *Executing White Masculinities: Learning from Karla Faye Tucker*, 81 OR. L. REV. 183 (2002); Kathleen Kennedy, *Manhood and Subversion During World War I: The Cases of Eugene Debs and Alexander Berkman*, 82 N.C. L. REV. 1661 (2004); Michael Kimmel, *Integrating Men into the Curriculum*, 4

In this introduction, I suggest a framework of masculinities analysis and describe its relationship to feminist theory. First, I consider why we should ask the “man question,” and how we should ask it. Second, I explore how masculinities analysis might be useful in our examination of the “man question.” Masculinities work can be used to understand more clearly how male privilege and dominance are constructed. It can make us see harms suffered by boys and men that we have largely ignored. It may also reinforce and strengthen the commitment to antiessentialism in feminist theory. Exposing the complexities and multiplicity of masculinities leads toward understanding intersectional and multiple forms of discrimination more clearly. In this way, it is analogous to noticing that the issues and positions of all women are not the same and include instances of women subordinating women.

Masculinities analysis may also remind us to be attentive to different patterns of inequality and to our interpretation of those patterns. Where one sex is sole or dominant, dominance should be something that triggers scrutiny. This should matter both when the dominant sex benefits (as in occupying high paid jobs) or is harmed (as in occupying more prison cells). We should question not only why one sex fills or dominates the pattern, but also the gendered meaning of both who is present and who is absent. Oddly, when one sex is dominant, sometimes gender issues are rendered invisible. Examples of this are male predominance in the juvenile and adult criminal justice systems, and women’s predominance in the welfare system. Invisibility is fostered by gender neutral language that covers the predominance of

DUKE J. GENDER L. & POL’Y 181 (1997); Sylvia A. Law, *Homosexuality and the Social Meaning of Gender*, 1988 WIS. L. REV. 187 (1988); Nancy Levit, *Separating Equals: Educational Research and the Long-Term Consequences of Sex Segregation*, 67 GEO. WASH. L. REV. 451 (1999); Nancy Levit, *Feminism for Men: Legal Ideology and the Construction of Maleness*, 43 UCLA L. REV. 1037 (1996); Christopher D. Man & John P. Cronan, *Forecasting Sexual Abuse in Prison: The Prison Subculture of Masculinity as a Backdrop for “Deliberate Indifference”*, 92 J. CRIM. L. & CRIMINOLOGY 127 (2001); Marc R. Poirier, *Hastening the Kulturkampf: Boy Scouts of America v. Dale and the Politics of American Masculinity*, 12 LAW & SEXUALITY 271; Corey Rayburn, *Why are YOU Taking Gender and the Law?: Deconstructing the Norms that Keep Men out of the Law School’s “Pink Ghetto”*, 14 HASTINGS WOMEN’S L.J. 71 (2003); Sherene Razack, *“Outwhiting the White Guys:” Men of Colour and Peacekeeping Violence*, 71 UMKC L. REV. 331 (2002); Dorothy Roberts, *The Social and Moral Cost of Mass Incarceration in African American Communities*, 56 STAN. L. REV. 1271 (2004); James E. Robertson, *A Clean Heart and an Empty Head: The Supreme Court and Sexual Terrorism in Prison*, 81 N.C. L. REV. 433 (2003); Michael Selmi, *Sex Discrimination in the Nineties, Seventies Style: Case Studies in the Preservation of Male Workplace Norms*, 9 EMP. RTS. & EMP. POL’Y J. 1 (2005); Victor L. Streib, *Gendering the Death Penalty: Countering Sex Bias in a Masculine Sanctuary*, 63 OHIO ST. L.J. 433 (2002); Rachel L. Toker, *Multiple Masculinities: A New Vision for Same-Sex Harassment Law*, 34 HARV. C.R.-C.L. L. REV. 577 (1999); Francisco Valdes, *Queers, Sissies, Dykes, and Tomboys: Deconstructing the Conflation of “Sex,” “Gender,” and “Sexual Orientation” in Euro-American Law and Society*, 83 CAL. L. REV. 1 (1995); Valorie K. Vojdik, *Gender Outlaws: Challenging Masculinity in Traditionally Male Institutions*, 17 BERKELEY WOMEN’S L.J. 68 (2002); Stephen H. Webb, *Defending All-Male Education: A New Cultural Moment for a Renewed Debate*, 29 FORDHAM URB. L.J. 601 (2001).

gender patterns, but also by the acceptance of the pattern as usual, normal, and taken-for-granted.

On the other hand, where both sexes are present, one or both may claim bias. We tend to frame competing claims of bias as requiring prioritization or hierarchy rather than seeing how they interconnect. We tend to argue over who has the more important issues to address or the most pressing “crisis.” Resisting this “either/or” approach or a hierarchy of inequalities is critical. For example, in education there are inequality issues for both girls and boys, women and men. Rather than exclusively focusing on the issues of one sex to the exclusion of the other, as if only one can claim our focus or deserve our attention, we should see and insist on addressing both. Inequalities often interlock.⁶ A battle of the sexes, moreover, may only divert attention from more serious issues of race and class.⁷ Examining subordination in isolation undermines our understanding and our attack upon the interacting dynamic, even if gender-specific problem solving is needed.

Finally, doing masculinities analysis is tricky and risky. It triggers the potential for adverse, counterproductive outcomes. Raising issues about men when so many issues about women remain generates resistance and distrust. The embrace of masculinities analysis is justifiably a cautious one due to the persistence of patriarchy’s reinvention of itself, even using the language and arguments of feminists to reinscribe dominance. Masculinities analysis needs to continually challenge itself to challenge the hegemony of men and male power. The project of imagining positive, affirming, egalitarian masculinities is ongoing, but it is absolutely essential. Finally, the ultimate theoretical model remains unclear: whether masculinities scholarship and feminist theory will mutually influence each other but remain separate, or whether they will build a larger, more comprehensive gender analysis.

I. FRAMEWORK OF MASCULINITIES ANALYSIS

A. *The Man Question*

Feminist theory has continually questioned, disputed, and debated itself, and that self-analysis and has only strengthened feminist analysis.⁸ In-

⁶ Nancy Ehrenreich, *Subordination and Symbiosis: Mechanisms of Mutual Support Between Subordinating Systems*, 71 UMKC L. REV. 251, 300 (2002).

⁷ An example of this is education, where issues of boys versus girls divert attention from more serious inequalities of class and race. See, e.g., Kimberly Jenkins, *Constitutional Lessons for the Next Generation of Public Single Sex Elementary and Secondary Schools*, 47 WM. & MARY L. REV 1953 (2006).

⁸ Debates over domestic violence, pornography, and motherhood are but a few of the many examples of feminism’s history of self-analysis. See generally MARTHA CHAMALLAS, INTRODUCTION TO FEMINIST LEGAL THEORY (1999); FEMINIST JURISPRUDENCE (Patricia Smith, ed., 1993); FEMINIST LEGAL THEORY: FOUNDATIONS (D. Kelly Weisberg ed., 1993); FEMINIST LEGAL THEORY: READINGS IN LAW AND GENDER (Katharine T. Bartlett & Rosanne Kennedy eds., 1991); CATHARINE A. MACKINNON, TOWARD A FEMINIST THEORY

corporating masculinities scholarship continues that tradition, as well as correcting an essentialist, limited view of men. By examining the construction of identity and power, it increases our understanding and estimation of the source and functioning of subordination. At the same time, it allows us to see that the culture and structure of gender harms boys and men as well, whether it is the “price” of privilege (for example, the stress or danger associated with certain jobs), or the result of men subordinating men as a way of performing masculinities (as when men are the victims of male violence or workplace harassment), or the harm inflicted by women on boys (who disproportionately are the target of physical forms of child abuse).⁹ In addition, by exposing the multiplicity and hierarchy of masculinities, masculinities work delivers the powerful insight that gender does not confer privilege on all men. Because the combination of race and/or class with gender can trigger subordination (at the hands of both men and women), it reveals how race and class are feminist issues because they are intertwined with the playing out of gender power.

In my prior work I have argued that masculinities scholarship suggests a series of teachings.¹⁰ These are what I have identified as core propositions, presented here in summary:

1. *Men are not universal or undifferentiated.*
2. *Men pay a price for privilege.*
3. *Intersections of manhood particularly with race, class and sexual orientation are critical to the interplay of privilege and disadvantage, to hierarchies among men, and factors that may entirely trump male gender privilege.*
4. *Masculinity is a social construction, not a biological given.*
5. *Hegemonic masculinity recognizes that one masculinity norm dominates multiple masculinities.*
6. *The patriarchal dividend is the benefit that all men have from the dominance of men in the overall gender order.*
7. *The two most common pieces defining masculinity are, at all costs, to not be like a woman and not be gay.*

OF THE STATE (1989); MARTHA MINOW, MAKING ALL THE DIFFERENCE: INCLUSION, EXCLUSION, AND AMERICAN LAW (1990); Katharine T. Bartlett, *Cracking Foundations as Feminist Method*, 8 AM. U. J. GENDER SOC. POL'Y & L. 31 (2000); Tracy E. Higgins, *Why Feminists Can't (Or Shouldn't) Be Liberals*, 72 FORDHAM L. REV. 1629 (2004); Christine A. Littleton, *Equality and Feminist Legal Theory*, 48 U. PITT. L. REV. 1043 (1987); Joan Williams, *Do Women Need Special Treatment? Do Feminists Need Equality?*, 9 J. CONTEMP. LEGAL ISSUES 279 (1998).

⁹ DOWD, THE MAN QUESTION, *supra* note 1.

¹⁰ *Id.* at 73–82; Dowd, *Masculinities and Feminist Legal Theory*, *supra* note 1, at 229–35.

8. *Masculinity is as much about relation to other men as it is about relation to women.*
9. *Men, although powerful, feel powerless.*
10. *Masculinities study exposes how structures and cultures are gendered male.*
11. *The spaces and places that men and women daily inhabit and work within are remarkably different.*
12. *The role of men in achieving feminist goals is uncertain and unclear.*
13. *The asymmetry of masculinities scholarship and feminist theory reflects the differences in the general position of men and women.*¹¹

The implications of these teachings for feminist theory are that feminists should “ask the man question” as part of the core inquiry of “asking the other question” that Mari Matsuda so skillfully and simply has demonstrated is critical to justice.¹² Whether obvious or hidden, masculinities issues are frequently present in gender analysis. This does not mean shifting focus away from women, as the dynamics of gender power are asymmetrical. Because the relative position of women in general and men in general may be different, the nature of the issues and the analysis is not parallel, and gender specificity may be necessary to achieve gender equality. It is also critical to recognize the significant risk in adding masculinities analysis. Masculinities work may be hijacked to reinforce, rather than to undermine, patriarchy.¹³

B. How Asking the Man Question Will Make a Difference

There are particular places and ways in which masculinities scholarship can make a difference to feminist analysis. *First, and consistent with what has been the central focus of feminist analysis, it can contribute to a better understanding of male power and the process of subordination, and therefore to the goal of women’s equality.* For example, masculinities analysis reveals that male power is exercised over other men as well as over all (or

¹¹ DOWD, THE MAN QUESTION, *supra* note 1, at 73–82.

¹² Mari J. Matsuda, *Beside My Sister, Facing the Enemy: Legal Theory Out of Coalition*, 43 STAN. L. REV. 1183, 1189–90 (1993) (“The way I try to understand the interconnection of all forms of subordination is through a method I call “ask the other question.” When I see something that looks racist, I ask, “Where is the patriarchy in this?” When I see something that looks sexist, I ask, “Where is the heterosexism in this?” When I see something that looks homophobic, I ask, “Where are the class interests in this?” Working in coalition forces us to look for both the obvious and non-obvious relationships of domination, helping us to realize that no form of subordination ever stands alone.”).

¹³ See *infra* notes 28–32 and accompanying text.

nearly all) women.¹⁴ This underlies the seeming paradox that although men are *powerful*, many men feel *powerless*. Masculinities analysis also uncovers male complicity in men's subordination by other men, even as it exposes hierarchies among men, particularly those of class and race. These insights are critical to designing strategic alliances as well as to understanding the complex dynamics of subordination not only of women, but also of many men by men who hold power and privilege. This might inform our view of persisting sex segregation at work, sexual harassment, income inequality, street and domestic violence, sexual assault, gender policing at school and work, and the devaluing of things associated with women as well as with men who engage in work or behavior that is associated with women. Ultimately, then, by exposing the dynamics of male privilege and subordination, masculinities analysis exposes *why* men have an interest in harming women. Hierarchies of men reinforce subordination of women, as well as support hierarchies among women. Recognizing more completely these dynamics leads to feminist knowledge and self-critique which is critical to fomenting real change.

In conjunction with this focus on further unraveling the nature of male power, masculinities analysis helps identify the *interaction of privilege and harm*. Frequently, attributes associated with men (leadership, strength, sacrifice, heroism) create double binds for women, who are neither respected nor valued—and may even be criticized—if they display these same characteristics.¹⁵ In addition to the double bind problem, those attributes may also carry limits and expectations for men that strongly affect their identities and lives. This is connected to the difficulty for some men in achieving those qualities, or the anguish caused by rejecting those qualities. In addition, the negative defining characteristic of masculinities—that men should not be like women or embrace behaviors associated with women—discourages men from developing female-associated qualities (caring, emotional responsiveness and expression).¹⁶ The consequences of these boundaries on the self imposed by masculinities are evident in suicide and health care statistics, as well as in men's difficulties in personal relationships due to the lack of support for the development of men's relational skills.¹⁷

The second contribution of masculinities scholarship is to expose men's harms, to render them visible. Masculinities scholarship has exposed men's victimization. Making women's voices, inequalities, and harms visible has

¹⁴ DOWD, THE MAN QUESTION, *supra* note 1, at 38–64 (examples of this include bullying and fighting).

¹⁵ See, e.g., Price Waterhouse v. Hopkins, 490 U.S. 228 (1989) (denying a female employee a promotion for acting aggressively and for not being feminine enough).

¹⁶ See, e.g., DOWD, THE MAN QUESTION, *supra* note 1, at 47–51. An example is the lack of socialization of men to provide childcare.

¹⁷ *Id.* (explaining the psychological implications of masculinities norms); see also Dowd, *Masculinities and Feminist Legal Theory*, *supra* note 1, at 201 n.8 (providing statistics on male victimization and specifics of the lack of support of men's relational skills in the text).

been a core project of feminist analysis.¹⁸ Antiessentialist feminist analysis has further opened that perspective to the impact of intersections with other powerful sites of subordination in order to challenge and understand the scope of gender harms holistically rather than hierarchically.¹⁹ Men have largely been invisible in identifying gender harms because of the general pattern of male power and privilege. Exposing men's harms is critical, however, to a more realistic understanding of how gender inequality and other inequalities are constructed. Seeing men as gendered is the focus of masculinities analysis. That analysis has exposed how gender harm is connected to men's very identity as men. In particular, masculinity requires constant proof of one's manhood; it is a status never achieved, but one constantly to be established and to be tested.²⁰ Daily proof of masculinity involves significant man-on-man hierarchy, denial of anything associated with being female, and living up to a standard that has been called "The Big Impossible."²¹

It is disproportionately men's bodies that are sacrificed in war, and men alone are required to register for military service.²² Masculinities are the basis for violence against men that is broad, deeply embedded in culture, and frequently taken for granted as hard-wired, as "boys being boys" and as "men being men."²³ For example, the objects of the criminal justice system are boys and men, just as the punishments are meant to control boys and men at their most dangerous. We are not surprised to find boys and men in jails and prison, and this leads us to gender the system in ways that reflect our deepest fears about men, and which reinforce the power of all men because of men's implicit dangerousness. When linked with race, this triggers

¹⁸ See Dowd, *Masculinities and Feminist Legal Theory*, *supra* note 1, at 201–03 and sources cited therein.

¹⁹ For more information regarding intersectionality and antiessentialism, see, for example, FEMINIST LEGAL THEORY: AN ANTI-ESSENTIALIST READER (Nancy E. Dowd & Michelle S. Jacobs eds., 2003); Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139 (1989); Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990); Mari J. Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 14 WOMEN'S RTS. L. REP. 297 (1992).

²⁰ See Dowd, *THE MAN QUESTION*, *supra* note 1, at 30–31 ("When does it end? Never.").

²¹ *Id.* at 47; DAN KINDLON & MICHAEL THOMSON WITH TERESA BARKER, *RAISING CAIN: PROTECTING THE EMOTIONAL LIFE OF BOYS* (1999) (The "Big Impossible" is the ideal of masculinity and part of the ideal is that it must be constantly proved, so it is inherently unachievable or the achievement is transitory.).

²² Military Selective Service Act of 1967, 50 U.S.C. app. § 453(a) (2006); see also *Rostker v. Goldberg*, 453 U.S. 57, 83 (1981) (upholding the Military Selective Service Act, which requires the registration and conscription of only men).

²³ Dowd, *Masculinities and Feminist Legal Theory*, *supra* note 1, at 201 n.8 (noting that seventy-nine percent of murder victims are male and there is a high rate of male homicide for males aged fifteen to twenty-four).

a disproportionate minority concentration linked to biases in policing and the judicial system.²⁴

Another area where harms have been ignored is with respect to child abuse.²⁵ Boys disproportionately are the targets of physical abuse, and disproportionately their batterers are women.²⁶ In addition, boys have been largely ignored as victims of sexual abuse, with the exception of recent scandals involving public or institutionalized abuse particularly at the hands of priests.²⁷ Identifying and making visible these harms in no way takes away from the harms of girls and women. Rather, it is to understand that gender is used in various ways to justify harm and identify victims. Masculinity as defined draws and creates much physical and psychic harm, and yet it sustains itself. The exposure of men and boys' harms is also critical to reimagining masculinity in a positive, egalitarian way.

The third area in which masculinities analysis can be especially helpful is to remind us to *see gender where it is obvious, and to notice the difference between how gender operates in homosocial or male-exclusive or male-dominant environments, as compared to how gender functions in mixed gender environments*. Where women are absent or in a minority, feminists frequently focus on how to integrate them into the environment, while assuming that gender is not operating at all or is only operating affirmatively for boys and men.²⁸ Each time we ask "Where are the women?" we should also ask the other question, "What are the assumptions, structures, and culture to which the men are subject?" or more simply, "What about the men?" An example of this is the juvenile justice system, which is so overwhelmingly male that it might almost be called the "boys' justice system."²⁹ Because of the predominance of boys and young men, the structure and assumptions of masculinities pervade the system, in a way that not only fails to account for female offenders, but also constructs and limits boys according to the masculinity code. As the number of girls has increased in the juvenile justice system, it has been recognized that they are in a structure not built for them

²⁴ DOWD, THE MAN QUESTION, *supra* note 1, at 101–02. For more information, see, for example, BARRY C. FELD, *BAD KIDS: RACE AND THE TRANSFORMATION OF THE JUVENILE COURT* (1999); Kenneth B. Nunn, *The Child as Other: Race and Differential Treatment in the Juvenile Justice System*, 51 DEPAUL L. REV. 679 (2002).

²⁵ DOWD, THE MAN QUESTION, *supra* note 1, at 147–63.

²⁶ *Id.*

²⁷ *Id.* at 151–59; see also GOVERNMENT OF IRELAND, COMMISSION TO INQUIRE INTO CHILD ABUSE (RYAN REPORT) (2009), available at <http://www.childabusecommission.com>.

²⁸ See, e.g., CAROL GILLIGAN, *IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT* (1982); CATHERINE A. MACKINNON, *FEMINISM UNMODIFIED: COURSES ON LIFE AND LAW* (1987); Vicki Schultz, *Reconceptualizing Sexual Harassment*, 107 YALE L.J. 1683 (1998); Joan Williams & Nancy Segal, *Beyond the Maternal Wall: Relief for Family Caregivers Who Are Discriminated Against on the Job*, 26 HARV. WOMEN'S L.J. 77 (2001). This is the underlying assumption of the anti-discrimination norm, which prohibits deviation or discrimination of one gender/sex in comparison to a norm of presumed equality for the other.

²⁹ DOWD, THE MAN QUESTION, *supra* note 1, at 105–20.

or with them in mind, and this has generated gender analysis of the system.³⁰ But this analysis has been limited to thinking about girls; no one has asked, what about the boys, what are the gender assumptions of this structure, and does it foster positive masculinities. So the challenge of a place where one gender is sole or dominant is to resist the invisibility of the dominant gender. We also might compare how this works in dominantly male and dominantly female settings, for the dominant group and the outsider group. Both masculinities and feminist analysis of education, for example, suggest the likelihood that female-exclusive or female-dominant environments operate differently from male-exclusive or male-dominant patterns.³¹

In mixed gender settings, like education and many workplaces, we frequently assume a simplistic pattern when in fact the reality is more complex. In addition, the dialogue pushes toward a zero-sum game, where only one side wins. Debates over education are a good example of this, claiming it is boys' "turn" or that boys' issues represent a crisis generated by policies meant to empower girls.³² By noticing, then, how masculinities function differently or need to be noticed differently depending upon gender patterns, the study of masculinities adds to our vision and understanding of bias and our conception of equality.

Masculinities analysis reinforces antiessentialism. Masculinities scholarship is consciously multiple, reinforcing that masculinities are social constructs and are therefore not universal, but also recognizing that a critical piece of masculinities is hierarchies among men.³³ Examining subversive and subordinated masculinities reminds us that not all men are privileged. By exposing the ways and factors that trump the patriarchal dividend associated with masculinity, masculinities analysis refocuses gender issues particularly on class and race. In a manner different than, but complementary to, antiessentialist critiques and methodology in feminist theory, masculinities analysis exposes what trumps male power. This calls, I believe, for feminists to embrace race as a feminist issue. Critical race feminists have demonstrated that gender is not an isolated identity characteristic; that priorities and understanding shift dramatically among different groups of women; and that unspoken points of view must be surfaced in feminist analysis.³⁴ Their critique has made it central to feminism to be consciously antiessentialist. What the study of masculinities adds to this is that pluralism has been

³⁰ See, e.g., AMERICAN BAR ASSOCIATION AND NATIONAL BAR ASSOCIATION, JUSTICE BY GENDER: THE LACK OF APPROPRIATE PREVENTION, DIVERSION AND TREATMENT ALTERNATIVES FOR GIRLS IN THE JUSTICE SYSTEM (2001), available at <http://www.abanet.org/crimjust/juvjus/girls.html>.

³¹ Nancy Levit, *Embracing Segregation: The Jurisprudence of Choice and Diversity in Race and Sex Separatism in Schools*, 2005 U. ILL. L. REV. 455, 485–86 (2005).

³² Marcus Weaver-Hightower, *The "Boy Turn" in Research on Gender and Education*, 73 REV. EDUC. RES. 471, 472 (2001).

³³ DOWD, THE MAN QUESTION, *supra* note 1, at 36–38, 58–59; Collier, *supra* note 5, at 433–34.

³⁴ See *supra* note 19 and accompanying text.

central to the development of the field and, arguably, is more robust. In addition, this analysis exposes the loss of masculine privilege, power, and domination when masculinity is practiced by men of different races and classes from the dominant heterosexual middle class white male. I would argue that this analysis should be the basis for feminists making race and class feminist issues. So, for example, an analysis of the juvenile justice system—what I have called the “boys’ justice system”—leads to the recognition of the disproportion of black boys and young men in the system. The gender analysis cannot be separated from the race analysis. It is, to use Cheryl Harris’ term, racial patriarchy.³⁵ Another example is the education system, where race inequities are far more disparate than gender inequities. I would argue that masculinities analysis exposes when male privilege is trumped or undermined; when it does, it demonstrates the tenacity and primacy of race and class at the core of injustice and inequality.

Finally, *masculinities theory generates risks and challenges*. While feminist analysis has sometimes been turned on its head or used for precisely the opposite effects from those intended by its advocates,³⁶ masculinities scholarship carries even more risk. The biggest risk is displacing the focus on girls and women, or blaming women for men’s harms in a way that feeds into old stereotypes. As an example, scholars who have worked on issues related to fathers know the tightrope between changing masculinities norms and hijacking fatherhood analysis to browbeat mothers.³⁷ Masculinities scholars need constantly to be challenged to remain focused on issues of power, or what Jeff Hearn calls the hegemony of men (as opposed to their masculinities).³⁸ The enormous pull of non-egalitarian masculinities also raises sobering difficulties that impede the ability to recast masculinities in positive, affirming ways. Yet the scholarship also exposes how those changes have occurred, and therefore illuminates the potential for change.

II. APPLYING THE FRAMEWORK: THE SYMPOSIUM ARTICLES

The articles in this symposium are a rich mix representing one or more pieces of this framework and suggesting the potential for more robust femi-

³⁵ Cheryl I. Harris, *Finding Sojourner’s Truth: Race, Gender, and the Institution of Property*, 18 CARDOZO L. REV. 309, 314 (1996).

³⁶ See, e.g., FATHERS’ RIGHTS ACTIVISM AND LAW REFORM IN COMPARATIVE PERSPECTIVE (Richard Collier & Sally Sheldon, eds., 2006); MARTHA ALBERTSON FINEMAN, *THE ILLUSION OF EQUALITY: THE RHETORIC AND REALITY OF DIVORCE REFORM* (1991); Naomi Cahn, *Civil Images of Battered Women: The Impact of Domestic Violence on Child Custody Decisions*, 44 VAND. L. REV. 1041 (1991).

³⁷ See, e.g., NANCY E. DOWD, *REDEFINING FATHERHOOD* (2001); Anna Gavanas, *Domesticating Masculinity and Masculinizing Domesticity in Contemporary US Fatherhood Politics*, 11 SOC. POL. 247 (2004).

³⁸ Jeff Hearn, *From Hegemonic Masculinity to the Hegemony of Men*, 5 FEMINIST THEORY 49, 50 (2004); Jeff Hearn, *Is Masculinity Dead? A Critique of the Concept of Masculinity*, in UNDERSTANDING MASCULINITIES 202, 202–14 (Mairtin Mac an Ghaill ed., 1996).

nist analysis. Richard Collier³⁹ and John Kang⁴⁰ focus on the breadth and potential of masculinities theory. Collier's survey and critique of masculinities scholarship provides a virtual handbook of developments in the field, particularly in the United Kingdom, United States, and Australia. He carefully sets out the history and theoretical progression of the field. Collier is particularly critical of the theoretical focus on hegemonic masculinity, what some masculinities scholars have identified as the dominant masculinity in a hierarchical structure of masculinities.⁴¹ According to Collier, a focus on this dominant masculinity risks a slide into essentialism. He is intrigued by changes in masculinity, and he works to identify positive aspects of masculinity, pointing to the example of changes in the conception and realities of fatherhood.⁴² He envisions positive masculinity and suggests that concept needs to be further explored.⁴³

John Kang focuses on a specific and richly textured piece of Collier's tapestry by looking at men and courage.⁴⁴ Courage is a quality that we might identify as a positive masculine characteristic, and we might wonder how the gender script or discourse encourages acts of courage. Kang shows us how that affirmative quality may be linked with risk and harm, and he delves into the feelings and reactions of soldiers when they experience fear. His piece exquisitely displays the price of privilege, if presumed courage then leads to honored sacrifice that translates into more opportunity and value for men.⁴⁵ Kang links the quality of courage in war to the more prosaic quality of risk-taking and its association with male teenage masculinities.⁴⁶ The price linked to the expectation of courage and risk-taking is that the demands of those characteristics, when identified as essential to masculinity, limit men's freedom and identity.⁴⁷ Is there a way to value a quality like courage, long associated with men, without denying it to women or deeming it necessary to manliness?

Kang's work exemplifies the interplay of privilege and subordination. He unravels the negative side of the expectation of courage, the price that is paid by some to meet or conform to this expectation of men.⁴⁸ His piece suggests the difficulty of identifying a positive component of masculinity without also wanting to ask whether there is a negative side. Kang links the

³⁹ Collier, *supra* note 5.

⁴⁰ John M. Kang, *The Burdens of Manliness*, 33 HARV. J.L. & GENDER 477 (2010).

⁴¹ Collier, *supra* note 5, at 454–60.

⁴² *Id.* at 448–50, 473; see also RICHARD COLLIER, *MASCULINITY, LAW AND THE FAMILY* (1995); RICHARD COLLIER, *MEN LAW AND GENDER: ESSAYS ON THE 'MAN' OF LAW* (2010); *FATHERS' RIGHTS ACTIVISM AND LAW REFORM IN COMPARATIVE PERSPECTIVE* (Richard Collier & Sally Sheldon, eds., 2006).

⁴³ Collier, *supra* note 5, at 471–75.

⁴⁴ Kang, *supra* note 40, at 486–95.

⁴⁵ *Id.* at 500–04.

⁴⁶ *Id.* at 490–91, 94; see also MICHAEL KIMMEL, *GUYLAND: THE PERILOUS WORLD WHERE BOYS BECOME MEN* (2008).

⁴⁷ See Kang, *supra* note 40, at 477–78.

⁴⁸ *Id.* at 486–95.

costs not only to social and personal norms, but also to the expectation of courage being embedded in law—constitutional and otherwise—in the concept of cowardice.⁴⁹

The two groups of papers that follow focus on specific substantive areas; namely, education and work.⁵⁰ Interestingly, both papers on education discuss the issue of sex segregation.⁵¹ They illustrate the fascinating differences that emerge when the educational issues of girls and boys are considered in a segregated framework as opposed to the dominant integrated framework. Education is in most instances formally integrated, yet informally strongly biased, with the biases playing out differently for girls and boys.⁵² Difference and segregation/separation exists within many formally integrated schools.⁵³ The pieces by David Cohen and Juliet Williams examine the persistence of gender segregation and the advocacy around renewed calls for gender segregation in education as a solution to the separate bias issues of boys and girls.⁵⁴ Cohen is engaged in a broad project on the persistence of gender segregation, and here examines that segregation through the lens of masculinities analysis.⁵⁵ He carefully exposes a range of places where segregation exists by legal mandate, administrative rule, per-

⁴⁹ *Id.* at 487–96, 500–04; see also John Kang, *Manliness and the Constitution*, 32 HARV. J.L. & PUB. POL'Y 261 (2009) (discussing masculinity norms embedded in the Constitution).

⁵⁰ David S. Cohen, *Keeping Men Men and Women Down: Sex Segregation, Anti-Essentialism, and Masculinity*, 33 HARV. J.L. & GENDER 509 (2010); Ann C. McGinley, *Ricci v. DeStefano: A Masculinities Theory Analysis*, 33 HARV. J.L. & GENDER 581 (2010); Leticia M. Saucedo & Maria Cristina Morales, *Masculinities Narratives and Latino Immigrant Workers: A Case Study of the Las Vegas Residential Construction Trades*, 33 HARV. J.L. & GENDER 625 (2010); Juliet A. Williams, *Learning Differences: Sex-Role Stereotyping in Single-Sex Public Education*, 33 HARV. J.L. & GENDER 555 (2010).

⁵¹ Cohen, *supra* note 50; Williams, *supra* note 50.

⁵² See, e.g., Jenkins, *supra* note 7.

⁵³ For more information on racial resegregation including segregation within schools, see, for example, Clint Alexander & Kern Alexander, *Vouchers and the Privatization of American Education: Justifying Racial Resegregation from Brown to Zelman*, 2004 U. ILL. L. REV. 1131 (arguing the use of vouchers perpetuates segregation); Michelle Wilde Anderson, *Colorblind Segregation: Equal Protection as a Bar to Neighborhood Integration*, 92 CAL. L. REV. 841 (2004) (citing housing and education confluence in resegregation of schools); Regina Austin, *Back to Basics: Returning to the Matter of Black Inferiority and White Supremacy in the Post-Brown Era*, 6 J. APP. PRAC. AND PROCESS 79 (2004) (detailing attacks on segregation between and within schools); Gabriel J. Chin, *Jim Crow's Long Goodbye*, 21 CONST. COMMENT. 107 (2004) (discussing laws and patterns of race discrimination). On sexual segregation and discrimination in education, see, for example, MICHAEL GURIAN AND PATRICIA HENLEY, *BOYS AND GIRLS LEARN DIFFERENTLY* (2001); MYRA SADKER & DAVID SADKER, *FAILING AT FAIRNESS: HOW AMERICA'S SCHOOLS CHEAT GIRLS* (1994); JANICE L. STREITMATTER, *FOR GIRLS ONLY: MAKING A CASE FOR SINGLE SEX SCHOOLING* (1999); Serena Mayeri, *The Strange Career of Jane Crow: Sex Segregation and the Transformation of Anti-Discrimination Discourse*, 18 YALE J.L. & HUMAN. 187 (2006); Rosemary C. Salomone, *Feminist Voices in the Debate Over Single Sex Schooling: Finding Common Ground*, 11 MICH. J. GENDER & L. 63, 72 (2004); Marcus Weaver-Hightower, *The "Boy Turn" in Research on Gender and Education*, 73 REV. EDUC. RES. 471 (2003).

⁵⁴ Cohen, *supra* note 50; Williams, *supra* note 50.

⁵⁵ Cohen, *supra* note 50.

missive rules, or informal/private construction deemed private and unreachable by law.⁵⁶ He demonstrates how segregation in various institutions supports and perpetuates hegemonic masculinity (the dominant masculinity norm) and the hegemony of men (men's power).⁵⁷ Cohen's analysis raises the question of whether these outcomes are equally the case where men predominate or dominate, as opposed to complete segregation. The example of the military (formally integrated as a whole) suggests how sustaining an enclave of segregation within formal integration (by maintaining male-only ground combat) perpetuates male dominance.⁵⁸ The example of education suggests that sex segregation is unwise because it cannot be done without reinforcing stereotypes.⁵⁹

Juliet Williams's analysis of the arguments on behalf of sex segregation in its recently revived form implicitly concurs with Cohen's analysis.⁶⁰ She exposes how the sex segregated education argument has centered on scientific "facts" of sex differences in brain and psychological development, facts which feed into stereotypes—even as their proponents claim this is not their goal.⁶¹ She also shows how proponents have argued that sex segregation is particularly useful as an approach to help racial minorities.⁶² Gender segregation is thereby justified as a solution to racial inequality in education.⁶³ Her skillful look at the discourse exposes exactly how purportedly egalitarian analysis can be used to thwart critiques of gender separation.⁶⁴ Rather than simply embracing masculinities to inform and complement feminist analysis, Williams exposes the risk of misuse of masculinities to deflect feminist critique.⁶⁵ Inequities of race and class are the starkest inequities in education, but an analysis of race and class is not in opposition to, but is connected to, gender analysis. Focusing on race as an education issue should lead to better analyses of gender issues, and it should help avoid analyses in which gender is used to step over race. Cohen reminds us that simply by using the categories of male/female we reinscribe dominance and binary gender views.⁶⁶ Williams reminds us how easily "evidence" can be used to support that approach, and she appeals to our taken for granted sense of gender difference.⁶⁷

⁵⁶ *Id.* at 513–17.

⁵⁷ *Id.* at 522–35; see also David Cohen, *No Boy Left Behind? Single-Sex Education and the Essentialist Myth of Masculinity*, 84 *IND. L.J.* 135 (2009).

⁵⁸ *Id.* at 514, 527–28, 532–34.

⁵⁹ *Id.* at 547–49.

⁶⁰ Williams, *supra* note 50.

⁶¹ *Id.* at 558–64.

⁶² *Id.* at 574–76.

⁶³ *Id.*

⁶⁴ *Id.* at 564–72.

⁶⁵ *Id.* at 577–79.

⁶⁶ Cohen, *supra* note 50, at 512, 547–48; see also David S. Cohen, *Present-Day Segregation: An Introduction to the Stubborn Persistence of Sex Segregation* (manuscript on file with author).

⁶⁷ Williams, *supra* note 50, at 569–73.

The second substantive focus is on masculinities and work. Here, as with education, there is a great deal of integration; however, sex segregation in jobs, professions, and specific workplaces still persists. Ann McGinley⁶⁸ and Leticia Saucedo and M. Cristina Morales⁶⁹ take us inside two dominantly male professions, firefighting and construction. These detailed examinations expose how work becomes and remains gendered, as well as how subordinated masculinities are constructed in ways that both support and resist the dominant, hegemonic masculinity.

McGinley takes us back to Harris's original insight, to "ask the other question" when we have identified a particular inequality as the "story" of what has happened.⁷⁰ In examining the *Ricci* case,⁷¹ she challenges the dominant read of the case as about race (particularly in the construction of the case during Justice Sotomayor's nomination) by asking about gender. She asks not whether women are present, but rather what masculinities analysis tells us about the dominance of men in the firefighting profession, the challenges of minority men and women, and the stories of the two lead plaintiffs as masculinity scripts.⁷² She brilliantly unpeels the layers of history, ethnicity, and gender that construct firefighting as a gendered job, and a raced job.⁷³ This kind of close analysis is critical to proactive de-gendering of jobs, to the reconstruction of masculinities, and/or to the reframing and use of masculinities as part of litigation strategies. There is also a link between McGinley and Kang, as both would have us wonder what fears and anxieties underlie firefighters' expected courage and bravery; and whether the expectation of courage leads them to do unnecessarily dangerous things.⁷⁴ McGinley tells the individual stories of the two lead plaintiffs as stories of class, disability, and ethnicity that mark them as subordinated masculinities trying to succeed.⁷⁵ Finally, McGinley offers a roadmap to begin degendering firefighting work by using masculinities analysis to reframe the assessment

⁶⁸ McGinley, *supra* note 50.

⁶⁹ Saucedo & Morales, *supra* note 50.

⁷⁰ McGinley, *supra* note 50, at 583–85.

⁷¹ *Ricci v. DeStefano*, 129 S. Ct. 2658 (2009).

⁷² McGinley, *supra* note 50, at 610–19.

⁷³ *Id.* at 595–610; *see also* Ann C. McGinley, *Masculinities at Work*, 83 OR. L. REV. 359 (2004) (evaluating masculinities scholarship and its use in sex stereotyping and sex harassment cases under Title VII); Ann C. McGinley, *Creating Masculine Identities: Harassment and Bullying Because of Sex*, 79 U. COLO. L. REV. 1151 (2008) (discussing masculinities and bullying research as a means to understand group harassment and discrimination because of sex or gender).

⁷⁴ McGinley points out that some of the heroics of 9/11, where so many firefighters were lost, connect to brave but unnecessary and unsafe conduct fostered by the masculinities of the job. McGinley, *supra* note 50, at 596–600.

⁷⁵ *Id.* at 610–16. McGinley poignantly describes Frank Ricci, who is dyslexic, haltingly reading his testimony at the Sotomayor hearing. Ben Vargas, who is Hispanic, also testified about how hard he studied in order to take the exam. As McGinley notes, the backdrop in the room was a host of firefighters in uniform, all white, all male.

process.⁷⁶ This reinforces the lesson that masculinities are made, and therefore can be reformed.

Saucedo and Morales similarly expose the creation of masculinities in residential construction, particularly focusing on how subordinated masculinities are formed on jobs that become identified with men and some women, all of whom are brown and immigrants.⁷⁷ Their study of residential construction work in Las Vegas links particular masculinities with specific employer policies (converting jobs from employee to independent contractor status and deskilling the work) that generate those masculinities.⁷⁸ Especially fascinating is how those masculinities are defensive and subversive, translating the devaluing of work into pride in the risk and challenge of the work.⁷⁹ At the same time, fear of losing work becomes a masculinity norm of no complaints.⁸⁰ Saucedo and Morales show how masculinities are predictably connected to employer policies, suggesting how that might be reachable under Title VII.⁸¹ Just as fascinating are the examples of how employer policies can work toward a progressive, positive masculinity, including the example of policies introduced on an oil rig that transformed masculinities on that job site.⁸² Saucedo and Morales' argument resonates with the specific, contextual policies suggested by McGinley; it also brings us back to the question raised by Collier: whether we can identify positive masculinities and how we can support them.

Understanding how masculinities are constructed at work reveals not only how they reinforce male hierarchies, but also how they disadvantage all women. So this close look at two male dominated jobs is really valuable for women. It illustrates how the privileges and harms of men feed men's subordination of women, and the hierarchy of women's subordination. It also should make us wonder what happens as a job or a workplace becomes more integrated.

The final piece by Valorie Vojdik focuses on masculinities and the creation of female identities, by looking at veiling or the wearing of a headscarf

⁷⁶ *Id.* at 616–19.

⁷⁷ Saucedo & Morales, *supra* note 50; *see also* Leticia M. Saucedo, *Addressing Segregation in the Brown Collar Workplace: Toward a Solution for the Inexorable 100%*, 41 U. MICH. J.L. REFORM 447 (2008) (proposing a new discrimination framework to deal with workplace segregation and addressing inferences from patterns of segregation at work); Leticia M. Saucedo, *The Employer Preference for a Subservient Worker and the Making of the Brown Collar Workplace*, 67 OHIO ST. L.J. 961 (2006) (challenging myth of immigrant worker with reality of employer preferences for subservient worker and taking advantage of social conditions of immigrants).

⁷⁸ Saucedo & Morales, *supra* note 50, at 628–34.

⁷⁹ *Id.* at 642.

⁸⁰ *Id.* at 634.

⁸¹ *Id.* at 650–59; *see also* Tristin K. Green, *A Structural Approach as Anti-Discrimination Mandate: Locating Employer Wrong*, 60 VAND. L. REV. 849 (2007) (presenting structural analysis and approach to employment discrimination law).

⁸² Saucedo & Morales, *supra* note 50, at 651–57 (citing the study of Robin J. Ely & Deborah Meyerson).

in Turkey.⁸³ The article is a wonderful reflection of the principles underlying Collier's theoretical piece, particularly his interest in moving away from hegemonic masculinities and in using masculinities as a means to achieve women's equality and to reconstitute men's definitions of masculinities. Vojdik writes about official government mandates that prohibit women from wearing the veil. She argues that re-veiling or the taking on of the veil must be seen in the context of who makes this choice and for what reason, and she sees in it an empowerment of women that challenges both secular and Islamic masculinities, as well as colonialist and Western notions of women's equality.⁸⁴ The history and context of veiling expose the attempt to define and restrict women's identities and bodies, but more recently, some women have chosen to veil or cover as an expression of political identity that they control, rather than as an extension of particular masculinities.⁸⁵ Vojdik exposes multiple subversive and hegemonic masculinities vying for political power by trying to dictate to women and use women symbolically, and the disruption of that power by women claiming their own power and meaning when they re-veil.⁸⁶ So this piece reminds us, when we think something is a "women's" issue, to ask the other question: what about the men? If men are supporting removal of the veil, are they doing so to support women, or to support their own power? If men are positioned with respect to the issue to use women for their own ends (much like Williams's example of how advocates of sex segregation use racial minorities for their own ends), then masculinities analysis exposes this; how this is not a recasting of male power in support of equality, but a thinly disguised reassertion of male power. Vojdik carefully shows how veiling is not universal or ahistorical but rather is contextual and changeable; it depends on who is putting on the veil and for what reason.

These pieces collectively establish the promise of masculinities scholarship for feminist analysis. Ultimately, masculinities analysis contributes to the goal of equality and justice. At the same time, these pieces reinforce the difficulty of that task. Much of masculinities analysis exposes a deeply negative, constricting definition of manhood. One of the critical challenges for a reoriented masculinity is to imagine an affirmative identity. It is also a challenge to give up power, and much of masculinities scholarship does not provide a clear answer to how that can be achieved. But the way to achieve equality is to include all analysis, however difficult or uncomfortable. And it must be equality for all.

⁸³ Valorie K. Vojdik, *Politics of the Headscarf in Turkey: Masculinities, Feminism, and the Construction of Collective Identities*, 33 HARV. J.L. & GENDER 661 (2010).

⁸⁴ *Id.* at 661–65.

⁸⁵ *Id.* at 672–75.

⁸⁶ *Id.* at 679–85.