For thirty years feminists have focused on defending the rights of women who experience discrimination despite their ability to perform as ideal workers. Price Waterhouse v. Hopkins shows the continuing importance of such work. Ann Hopkins worked for six years at Price Waterhouse and “was generally viewed as a highly competent project leader who worked long hours [and] pushed vigorously to meet deadlines.” None of the other candidates in her year “had a comparable record in terms of successfully securing major contracts for the partnership”; one contract alone was worth $25 million. The only woman among the eighty-eight candidates for partnership the first year she was considered, ultimately she was denied partnership. The record showed that one partner had advised her to take “a course in charm school”; another had advised her to “walk more femininely, talk more femininely, dress more femininely, wear make-up, have her hair styled, and wear jewelry.”

As long as women such as Ann Hopkins remain targets of discrimination, the defense of ideal-worker women needs to remain part of the feminist agenda—part, but not all. Most mothers, we have seen, do not perform as ideal workers. Only about a third of mothers of childbearing age do, even in the minimal sense of working full time full year. Antidiscrimination law needs to help not only the women who can perform as ideal workers but also the majority who can’t. A closer analysis shows that the ideal-worker schedule is only one type of masculine norm at work in today’s economy. The Hopkins case involves another: the definition of jobs in terms of what theorists call “masculine gender display”—walking, talking, and dressing in masculine ways. In jobs involving physical (as opposed to mental) work, a third type of masculine norm emerges, as when facilities, equipment, or job requirements are designed to accommodate most men but not most women.

This chapter first documents the intense sex segregation in the economy and points out the role played by masculine norms in maintaining it. Yet such norms have been defined as discrimination only in two narrow contexts: where they take the form of sexual harassment or of stereotyping. This chapter argues that jobs designed around masculine norms discriminate against women in other contexts as well. Designing jobs around men’s bodies obviously excludes the large majority of women, who are smaller and lighter than most men. Jobs designed around an ideal-worker schedule discriminate against women on the basis of their inability to command the flow of family work that supports most male ideal workers. Requiring women, if they want to achieve equality, to exercise the social power typically available only to men—to command a flow of family work, to have the kind of body machines are designed around, to relate to others in masculine terms—constitutes discrimination against women.

This chapter first documents the paucity of women in the best blue- and white-collar jobs held by men. The analysis of the economy in the first half of this chapter also documents the role of masculine norms in excluding women. It then shows how traditionally female jobs allow women to avoid the kinds of norms that make life difficult for them in the higher-paying positions traditionally held by men.

This proposal to eliminate masculine norms in market work raises immediate questions of feasibility. How is it possible to replace or modify costly facilities and equipment designed around masculine norms without bankrupting the economy? Perhaps it would be nice to redesign job schedules to make all jobs more accessible to those without the breadwinner’s traditional access to family work, but wouldn’t this be prohibitively expensive in an era of intense competition? As it turns out, consultants have been working with businesses for twenty years and have shown that a redesign of work often makes workplaces more productive, rather than less so.

If the goal of eliminating masculine norms is feasible, the next question is how to achieve it. This chapter articulates a legal strategy and a series of public policy proposals designed to reconstruct the market world to eliminate the economic marginalization of women. Not only do we need to fight for equality in the workplace as it is today; we also need to deconstruct masculine norms in market work. Women will gain equality only when ideal workers no longer have to drop the baby.
WHY WOMEN REMAIN IN WOMEN’S WORK

Like machine and tool specifications based on the dimensions of the average male body, no-leave and other personnel policies that fail to take account of child-bearing and child-rearing needs also reflect the assumption that only men, indeed only men in traditional families, belong in the workplace. Most women work with other women. Three-quarters of all working women still work in predominantly female occupations. Relatively few women gain access to the best jobs society has to offer: upper-level management and professional positions for college-educated workers, blue-collar work for workers with only a high school education.5

Most women remain in “women’s work,” in substantial part, because masculine norms exclude them from jobs traditionally held by men. Such norms operate differently in the white- and blue-collar contexts. Whereas women typically have little trouble stepping onto the bottom rungs of job ladders that lead to high-level managerial and professional jobs, they are blocked from promotion by job requirements that require workers to have gender privileges few women enjoy: access to a flow of family work from a spouse, and the kind of mentoring and social contacts that still follow the social patterns of masculinity.

In traditionally male blue-collar work, women often don’t even get in the door. Women have trouble getting hired because of intensely gendered job descriptions that send the message that women need not apply, because equipment designed around men’s bodies excludes disproportionate numbers of women; and because the scheduling of such jobs requires access to spousal work at a level available to most men but few women. Finally, severe sexual harassment plagues the few hearty souls who take traditionally male blue-collar jobs despite the clear signals that these are jobs designed for men. Promotion tracks also present a problem for women aspiring to blue-collar positions in a number of ways that will be discussed below.

Only some of these dynamics have been viewed as discriminatory. Sexual harassment has, along with the treatment experienced by Ann Hopkins. But designing production processes around male bodies has not, nor has scheduling market work around the flow of family work men enjoy but women do not. These have been considered, respectively, women’s lack of qualifications for the job and mothers’ choice. This chapter argues that both constitute discrimination against women.

Of Mommy Tracks and Basketball Hoops: Masculine Norms in the Best White-Collar Jobs

When people are thinking of who they’ll promote, whether consciously or subconsciously, a picture of a white male pops into their minds and that’s their definition of what a manager should look like.

I’d win lots of awards when I’d win contests and they’d give me money clips and tie tacks. And I’d say, What I am supposed to do with these things? I don’t need a money clip. I don’t need a tie tack.6

In the white-collar context, the problem is not access but advancement. “[A] virtual closing of the gap in education and skills between men and women during the 1970s and 1980s” has not led to proportional representation of women in high-level white-collar jobs. “Female workers have moved into male-dominated professions, but they are still dramatically underrepresented at the highest levels of occupational status and financial reward. . . . [T]hey hold about thirteen percent of tenured academic posts, six percent of the partnerships of the large law firms, five percent of federal elective offices, and three percent of the executive positions at publicly traded corporations.” Although women represent about forty percent of the U.S. workforce, they hold only about five percent of the top-level jobs. Their representation in senior management positions has risen at a glacial rate, from three percent in 1980 to seven percent today. They probably hold no more than twenty percent of the jobs in the uppermost four levels of corporate hierarchies.7

Studies by national and local bar associations document these patterns in law firms. By the 1990s women were nearly half of the new recruits of top law firms in New York City, but eighty percent of the partners still were men. An American Bar Association (ABA) study found that men still were eighty-seven percent of the partners of all law firms with two or more lawyers. ABA surveys found that men were more than twice as likely to be partners when compared to women of similar backgrounds. In the fifteen years after 1970, twice as many men as women hired by large New York law firms were promoted to partner.8

Pay differentials also persist. One study found that the median income of women ten years out of law school is forty percent lower than men’s. Research reviewed by the ABA Commission on the Status of Women in the Profession found pay gaps of ten to thirty-five percent between male and female general counsels. A survey of firms in the San Francisco area found that male partners are more likely than females to be higher-paid equity partners.9

“Throughout the ‘80s we were told it was simply a matter of time,” said Patricia Wald, now a judge on the United States Court of Appeals for the District of Columbia Circuit. “But now . . . we know better. There are indeed more women in big firms, there are more women partners (about ten percent), but nowhere near the level one would expect from the number of entry-level associates (about fifty percent).” Moreover, the situation may well be deteriorating rather than improving. Glass Ceilings and Open Doors, a study by sociologist Cynthia Epstein commissioned by the Bar Association of the City of New York, found a sharp decrease in the numbers of women being made partner after 1990.10

Law is not the only high-status white-collar profession still dominated by men. As of 1990, the top-ranking partners in Wall Street were still ninety percent male; in accounting, women were only five percent of the partners at national firms in 1988. In business, virtually all upper-level management positions still are held by white men. The Federal Glass Ceiling Commission reports that ninety-five to ninety-seven percent of senior managers of Fortune 500 companies are men; little change has occurred since 1979. Only two women were CEOs of Fortune 100 companies by 1994.11
Women professionals typically are given far fewer chances for advancement than male ones. A 1990 study found that a woman with an MBA from one of the top twenty business schools earned an average of 12 percent less than a comparable man the year after graduation, a pay gap that increases with age. The median annual income of members of the Stanford Business School class of 1982 who were employed full time ten years later was nearly 40 percent higher for men than women—and this, of course, does not count the women no longer in the workforce. In 1992 compensation for women executives was still less than two-thirds that of male executives. "Twenty years ago, the question of why no women headed large corporations had a standard answer: Too few in the pipeline." The same answer is not so readily accepted today.12

Men still dominate the upper levels of academic posts as well. "In 1970, when women won the right to vote, twenty-six percent of the full-time faculty in American higher education were women. In 1995, thirty-one percent of full-time faculty in American higher education are women—an increase of five percent over seventy-five years." Women enter many graduate programs in roughly equal proportions with men, but they hold fewer than 15 percent of tenure-track academic posts. Women are also much more likely to drop out of academe and to teach at community colleges or nonelite colleges and universities. They are also much less likely than men to get tenure: women's rate of tenure (45 percent) was the same in 1992 as it was in 1975, though men's tenure rate rose sharply, to 72 percent in 1994–1995. The gap between the wages of male and female academics also persists, with no noticeable improvement since 1982. In legal academe, men still comprise 81 percent of tenure-track law faculty and 92 percent of law school deanships.13

Why do women reach the best white-collar jobs in such tiny numbers? The time is past for arguing that no women are in the pipeline. The chief reasons for women's lack of representation are the glass ceiling and the maternal wall.

The Glass Ceiling
One day I noticed a toy basketball hoop on the wall of a colleague's office. When I remarked on it, he explained that it was meant to make people feel more comfortable. I'm sure it does make some people feel more comfortable. I suspect those people are predominantly male. To men, the hoop signaled his good intentions by recalling the pattern of male bonding through sports. To many women, it may signal they do not belong in a profession where comfort levels often depend on competence in masculine gender performance. I myself decided to quit law firm practice during a lunch when it became clear I was odd (wo)man out because I knew nothing about football. I had no desire to learn, and realized in a flash I would never make partner.

The patterns of social bonding in high-status jobs remain distinctly masculine. This means that successful professionals often require being "one of the boys," an effort more likely to be successful in men than in women. Studies of the glass ceiling stress the ways mentoring and other opportunities are linked with what theorists call masculine gender performance—behaving in the ways traditionally expected

of men. "Today, the prevailing culture of many businesses is a white male culture," said a Labor Department report. It quotes the CEO of a major national retailer: "The old-line companies are run by the white '46-long' guys who practice inappropriate male rituals [such as] male bonding through hunting, fishing, and sports talk... Too much so-called 'strategic planning' takes place after the bars close—that kind of male friendship ritual is irrelevant to business."14

Common glass-ceiling practices include different treatment of men and women with respect to job assignments that lead to advancement, initial placement in relatively dead-end jobs, and lack of mentoring for women. Glass Ceiling found many instances of differing treatment. "It's always going to be tough to figure out how to treat the women, but now it's worse and I'd rather not be in a mentoring relationship with them," one manager told a researcher. Women also lack access to informal networks; in focus groups they spoke of men going out for beers or to the gym with the boss, occasions when women were not invited. Almost 93 percent of senior women executives in a 1992 survey felt a glass ceiling existed. One-quarter felt that "being a woman/sexism" was the biggest obstacle they had to overcome in their careers.19

The practices that add up to the glass ceiling are often unconscious, as when women's work is scrutinized more closely than men's. Plum assignments and promotions are rewards given to workers who seem able, committed, and serious; in the eyes of some beholders, men fit these images more often than do women.

The Maternal Wall
"Since I came back from maternity leave, I get the work of a paralegal," protested one Boston lawyer. "I want to say, look, I had a baby, not a labotomy." Prominent sex discrimination attorney Judith Vladek replied, "Women should be told the truth. Having a baby is used as an excuse not to give women opportunities. The assumption is that they have made a choice, that having children ends their commitment to their career." Vladek added that many women postpone having children "only to learn that putting off motherhood doesn't help. Even if they take just six weeks of maternity leave, they come back and find out that they've been passed over for a promotion or that their job was eliminated during their leave. I've seen it in every kind of workplace." At the hearing of the ABA's Commission on Women, Barbara P. Billauer, president of the Women's Trial Board, testified:

Every single woman that I have spoken to without exception, partner or associate, has experienced rampant hostility and prejudice upon her return [from maternity leave]. There is a sentiment that pregnancy and motherhood has softened her, that she is not going to work as hard.

One top performer in a business setting described her nationally known employer as "racing into the 1990s... I was the only female in the sales force, and they had no maternity policy. My boss had the attitude that if you want to play in a man's world you have to bear the consequences. He was of the mind set that women with kids should be at home."15
Reports are widespread that women experience a maternal wall. New York and Harvard researchers repeatedly heard reports of mothers receiving less desirable assignments than they had received before children. Glass Ceilings reports that women who returned to work after the birth of children not only experienced less desirable assignments but also had the sense that if they were ideal workers, that proved they were irresponsible mothers. "Comments made by various lawyers often reflected the belief that a woman's first priority should be her children." 7

Such comments place mothers in the catch-22 situation the U.S. Supreme Court described in Price Waterhouse v. Hopkins. In that case, Ann Hopkins was faulted for being too aggressive in a context where aggressiveness was part of the job description. She was between Scylla and Charybdis. She could be aggressive but unqualified because she was insufficiently feminine, or she could be feminine but unqualified because she was insufficiently aggressive. The situation is similar when women find that if they perform as ideal workers, they are condemned as bad mothers; if they observe the norm of parental care, they are condemned as bad workers. Mothers can't win. This emerges clearly in the practice of asking female job candidates what their plans are for marriage and a family. I myself faced such questions in 1980; they remain common today. In one law firm interview in 1998, a partner advised a woman law student to take off her wedding ring. 8

The maternal wall is not limited to the law. In her in-depth study of a large corporation, Arlie Hochschild reports on one woman's return from maternity leave. The woman recalled:

Men in my office were putting money on the table that I would never show up at work again when the baby was born. I had to prove that when I came back, I was as good as I was when I left. Men were waiting to say, 'I told you so.'

She received the message that if she did perform as an ideal worker, it would prove her a bad mother. "One man commenced pointedly to another man in my presence, 'It takes a lot more than paying the mortgage to make a house a home.'" 10

The assumption that motherhood does, and should, preclude women from performing as ideal workers affects all women, not just mothers, as employers become wary of hiring women on the grounds that women have "disappointed them in the past." Said a senior editor at Working Mother magazine, "[T]he impact of motherhood shadows every woman, narrowing her options. Even those without children may be harmed; the mere fact that they are of childbearing age may compromise their career prospects." 20

The maternal wall is composed partly of old-fashioned stereotyping of women who are capable of performing as ideal workers along with the men. But it is also composed of three practices that drive mothers out of the workforce of their "own choice": the executive schedule, the marginalization of part-time workers, and the expectation that workers who are "executive material" will relocate their families to take a better job.

The Executive Schedule. As noted in the introduction, virtually no mothers work substantial amounts of overtime. This presents a problem for women in the best white-collar jobs because the executive schedule typically stretches from fifty to eighty hours a week. A Canadian survey of American and foreign executives found that nearly 56 percent worked between forty-six and sixty hours a week, an average of 20 percent longer than twenty years ago. A study of DuPont managers found they averaged fifty-five hours a week. The percentages are much higher at the top levels. Gone are "bankers' hours," from nine to five. The great American speed-up affects all economic levels: Americans now work more overtime than at any point since World War II. 21

The overwork requirement is particularly well documented among lawyers. An ABA survey found that at least 55 percent of all lawyers worked over 2,400 hours per year, which averages out to 45 hours a week. At least 13 percent of lawyers worked even more, billing 2,880 hours a year, or nearly 60 hours a week. The average large firm in New York City requires associates to bill up to 2,900 hours annually, some require billings of 3,000 hours, which requires an average of 80 hours in the office a week. One influential report concludes that "the legal work makes dramatic demands on the practitioner's time and makes it difficult or nearly impossible to have a life in which family obligations or other non-work activity may be experienced in a conventional way." Said one New York lawyer:

I couldn't come home at nine three nights a week after my kids have gone to bed. . . . it's not something I could have done in their infancies, and it would be even harder now with my daughter in first grade, having homework, to say "See you tomorrow; see you in the morning, if I happen to be around when you're up." 22

The executive schedule drives many women off the promotion track. In a recent survey of executive women, "most of the women said they forsook the goal of top-ranking management at a big public firm because the grueling work hours expected of executives made it difficult to meet family obligations." A survey of women graduates of Harvard's business, law, and medical schools found that most (70 percent) worked shorter hours after having children, though most (85 percent) believed that this would hurt their careers. They were right. Catalyst, an organization that has long worked to increase opportunities for women, concluded that "the reality is, if a woman wants to obtain a top management position, [she] cannot be the primary caretaker of [her] child." 23

In jobs structured around a flow of family work men have but women don't, women must choose between work and family while men can have both. Nine out of ten men in upper-level corporate management have children and a nonworking spouse. As Deborah Rhode has pointed out, most female executives have neither. Almost one-third of women in senior positions, but only 6 to 8 percent of men, never marry. Only about 30 percent of women in senior positions have children, as compared to 50 percent of the men. Ninety-three percent of married women lawyers have spouses who work full time, a disproportionate number of them as high-level profes-
sionals; these husbands do not provide their wives with the flow of family work available to the nearly half of married male attorneys who are married to housewives. Female executives also tend to be married to same-class males who work full time, but the men are often married to homemakers. A recent Du Pont study found that its male executives are now more likely to have an at-home wife than they were ten years ago.45

These patterns mean that the cost to families of mothers' and fathers' success is different. Where the father is the executive, the family can live up to the norm of parental care, but where the mother is the executive, it can't. No wonder far fewer mothers "succeed."46

Instead, many marginalize. The term "mommy track" was first used in a New York Times article about lawyers. It reported, "Women who choose to put in fewer hours and spend more time with their families say they are considered less serious by male colleagues." One big-firm associate told the reporter there was "no chance" she would make partner despite the fact she worked twelve-hour days, employing two shifts of babysitters. "You accept it," she said, "because your kids are worth it." Note her unquestioning assumption that her employer is entitled to marginalize her because she did not keep an executive schedule.46

In a social context where full-time work often precludes a normal family life, part-time work would seem a logical alternative. The following section explains why it is not.

The Marginalization of Part-Time Work The decision to work part time generally means restricted prospects for advancement and lower pay, despite comparable qualifications. When you work part-time or temporary, they treat you differently. They don't take you serious," said one secretary. The same pattern persists as the job status rises. Even women in "retention"—part-time jobs designed to retain valued employees—typically suffer in terms of advancement. Glass Ceilings found that part-timers—almost exclusively women—generally are taken off the partnership track either as a matter of official policy or as a matter of practice. Another recent study found that virtually the only profession in which part-time work did not hurt women's careers was nursing. Outside of nursing, most employers see part-time workers as "putting up a sign: 'Don't consider me for promotions now.'"47

"Part-time work is still widely viewed as an occupational dead end," said one influential commentator. According to another, "Women who take part-time work are often so grateful for the option that they do not mind facing dimmer prospects. For law firms, part-time work means retaining talented workers while paying them less and not worrying about making them [partners]." A part-time lawyer quoted in one news story earned 60 percent of what full-time lawyers earned for each hour she worked, somewhat higher than the average figure of 60 percent. In addition, in many professional contexts, part-time workers receive the paradoxical message that the only responsible way to work part time is to work full time. "People who work part-time and who are seriously committed to their practice don't really work part time," said one law firm partner. Another part-time lawyer noted that her firm had given her a bonus because they acknowledged that she had worked full time. But they still calculated her salary as if she had worked 80 percent, rather than 100 percent, of the firm's established schedule.48

Many women who work part time do so for only a limited period; then they return to full-time work. However, not only are part-timers penalized during the period they work part-time, but they suffer long-term consequences for having done part-time work. Even if someone who has been working part time later takes a full-time job, she (or he) is likely to earn far less than someone who always worked full time.49

Part-timers also generally get less interesting work and less respect. Glass Ceilings found that part-time associates believe they get low-profile assignments that hurt their chances of success. According to Fern Sussman, executive director of the Association of the Bar in New York, "The top tier is the full-time partnership track lawyer who has all the perks and prestige, and the bottom tier is the part-time track, made up largely of women." Some firms have made the mommy track a formal option, instituting a "permanent associate" track. One commentator raised the "frightening possibility" that law firms will evolve into institutions "top-heavy with men and childless women, supported by a pink-collar ghetto of mommy lawyers," often with permanent-associate status.50

Part-time work is also penalized in many other types of businesses. In a recent study of a large corporation she calls Amerco, Arlie Hochschild found that although many corporations offer part-time work and other "family-friendly" policies, very few parents took advantage of them. Instead, parents at the large corporation Hochschild studied were working longer and longer hours. She asks why workers aren't choosing to participate in family-friendly programs, and concludes that workers prefer to be at work rather than at home.51

While this may be true in some cases, in her many conversations with the employees at Amerco, Hochschild uncovered another reason why many workers eschew family-friendly policies: any worker who so much as expressed interest in part-time work was immediately and permanently barred from advancement. Hochschild cites the example of Eileen Watson, a thirty-year-old ceramics engineer who worked sixty to seventy hours a week. After the birth of her first child, she asked to cut back to 60 percent for a few years, to gain something closer to a forty-hour workweek. She presented the idea to her boss, suggesting that a young, newly hired engineer could take over three to four hours of her daily work at a lower rate than she was paid. She would take a 40 percent pay cut, and the company would come out ahead financially. Her manager agreed, but Eileen found herself working more than the agreed number of hours. Though she continued to excel at her work, her boss resisted the arrangement.52

He said to me, "Eileen, I don't know how to do part-time. My experience is that people who put in the hours are the ones who succeed." I said, "Measure me on my results." He replied, "No. It doesn't work that way. What matters is how much time you put into the job, the volume of the work. . . . That's all I know how to understand as a basis for getting ahead."
Indeed, like most successful managers at the company, her boss worked extremely long hours; most managers could do so because their wives were homemakers. Said one successful manager in response to a survey by a junior (male) manager reporting that company employees wanted a better balance between work and family:

Dave blew up at me: “Don’t ever bring up ‘balance’ again. I don’t want to hear about it. Period. Everyone in this company has to work hard. We work hard. They have to work hard. That’s the way it is. Just because a few women are concerned about balance doesn’t mean we change the rules. If they chose this career, they’re going to have to pay for it in hours, like the rest of us.”

“The way they managed their lives and the way they were brought up is being challenged,” observed the junior manager. A DuPont vice president was more tactful: “Managers like me who have had the comfort of relying on our spouses to handle most family issues often fail to understand how critical [work/family] programs are to our employees who need them, and, therefore, to business success.” The National Study of the Changing Workforce found that supervisors with employed spouses provide more job-related and family support than those married to homemakers. Meanwhile, a study by the Families and Work Institute found that the bosses women found most difficult to deal with have wives who do not work outside the home.39

Hochschild’s data suggest that parents’ reluctance to take advantage of family-friendly policies reflects their desire and their need to avoid marginalization at work. Eileen’s part-time schedule helped get her fired, a pattern documented elsewhere. Lora Ilhardt was laid off from her part-time job in the legal department of Sara Lee in a context where circumstances strongly suggested that she would not have been fired had she worked full time. Another part-time worker was among the first released during a layoff because of her “unusual work arrangement.” A recent study suggests this is not uncommon.34

When Eileen lost her job at Astroso, she was given two months to find a new job within the company. Two years later, Hochschild found her working full time. Eileen’s story suggests that parents eschew part-time and other flexible policies not because they prefer work to home, but because the alternative is rigorous marginalization that ultimately can get you fired. What workers like Eileen want is “an array of possible timetables that allows women and men alike to combine ambition and the family.”35

Hochschild’s study also shows why companies often implement their policies in a punitive way even after management consultants have documented that flexibility would save money. The key is in who is implementing the policies. Said one top-level manager with a workaholic schedule and a wife at home:

“Time has a way of sorting out people at this company. A lot of people that don’t make it to the top work long hours. But all the people I know who do make it work long hours… The members of the Management Committee of this company aren’t the smartest people in this company, we’re the hardest working. We work like dogs.”

This is a singularly open statement about how to succeed in business. The crucial factor is not competence but a flow of family work from a wife at home. Of the twelve top managers Hochschild interviewed, all worked fifty- to seventy-hour weeks and most had homemaker wives. Most had never experienced the tug of family needs because their wives generally took care of all domestic matters. As discussed in chapter 1, successful men tend to have marriages with gender patterns that disappeared a generation ago in the bulk of the population, with wives operating virtually as single parents and not “bothering” their husbands with domestic “details.” “The higher up you go, the likelier it is that you will have a traditional marriage,” noted one commentator. This describes the executives who implement family-friendly policies.36

Middle management often actively opposes flexible policies as well. The head of a large engineering division told Hochschild in a “pleasant, matter-of-fact” way, “My policy on flextime is that there is no flextime.” Middle managers, with direct control over workers’ evaluations and the authority to grant flexibility or deny it, often felt that flexible schedules were “one more headache.”37

“Family-friendly” policies often create a mommy track that most men and ambitious women want nothing to do with. Hochschild tells the story of Denise, assistant marketing director for one of America’s most successful product lines. When she was pregnant, she reported of her co-workers, “They corner you with questions. . . . What are you going to do when both you and Daniel have emergencies at work?” Hochschild explained, in this atmosphere, Denise wanted absolutely nothing to do with flexible or shorter hours. With a gender war on, shorter hours meant surrender. “No wonder mommy-track policies have had limited success.”38

Relocation. In addition to scheduling issues, a major issue in business and academics is that relocation often is required for advancement. In this society, families often move to advance men’s careers but rarely do so to advance women’s. As noted before, while fewer men can count on a family willing to move to advance their careers than was the case a generation ago, in most families that do move to advance a spouse’s career, that spouse is the husband. This pattern presents two types of problems for women. First, it requires women to turn down promotions they otherwise would accept. This means that men can succeed simply by “making the right moves,” whereas many women can succeed only if they are so stellar that they survive even though they did not make the right moves (literally and figuratively).39

Second, women’s careers are disrupted when they leave good jobs to follow their husbands, often taking less good jobs or dropping out of the workforce altogether as a result. A 1985 poll found that 71 percent of women thought they should relocate if their husband received a very good job offer in a different city; another study found that half of women, and two-thirds of men, put the husband’s career first. Men’s preferential access to relocation is a survival of the notion that the man is the “head of the family.” Recall that under common law, a married woman was legally required to follow wherever the husband chose to live. In a system where women managers typically have to
sacrifice family life to "succeed" and where many women lack the ability to relocate, huge numbers of women trained for management positions drop out. One study found that one-fourth of all women MBAs had dropped out of the labor force.40

The relocation issue also plays an important role in academics. Due to the scarcity of academic jobs, relocation is often required to get a job or to move up in the profession. Academics also imposes a rigid tenure clock that requires a period of intense effort at precisely the period when most families have young children. These job structures tend to keep women out of academics and to land them in less elite institutions if they stay.

In conclusion, although women enter the promotion tracks that lead to the best (and traditionally male) white-collar jobs, their careers often stall because those jobs are structured to require not only excellent work but access to gender privileges most women lack. These include the ability to fit into social patterns designed around masculinity, to move their families to take a new job or a promotion, to have a spouse willing to raise the professional's children according to the norm of parental care. Employers discriminate against women when they structure work to require employees not only to be competent but also to have gender privileges typically available only to men.

Cockpits, Lifts, and Family Values: Masculine Norms in the Best Blue-Collar Jobs

The best jobs available for working-class people are in blue-collar work; the only alternative is a low-paying service work or a pink-collar job. Yet women's presence in traditionally male blue-collar jobs remains minuscule. Forty-five percent of men, but only 10 percent of women, hold blue-collar positions. This figure underscores the extent of sex segregation, for most blue-collar women work as operatives, not skilled tradespeople, in factories that employ only or predominantly women. Even where men and women work in the same job category, women tend to land in lower-paying, lower-status jobs: as in-store bakers, for example, rather than as commercial bakers. The best blue-collar jobs, in precision, production, and craft occupations, have the largest concentration of white males of any job category. White females hold only 2.1 percent of such jobs. Black women hold about 2.2 percent.41

As noted above, the mechanisms of exclusion from blue-collar jobs differ from those in white-collar work. Whereas women typically have little trouble stepping onto the job ladders for managerial and professional positions, typically they are excluded up front from blue-collar positions by three types of masculine norms: equipment and industrial processes designed around men's bodies, schedules designed around men's access to a flow of family work from women, and eligibility for the jobs defined in terms of masculine gender performance.

Cockpits and Lifts: Designing Blue-Collar Work Around Men's Bodies

Equipment used in traditionally male jobs typically is designed to specifications that make it fit most men but a much lower proportion of women. Said Beth Szilagyi, a sheet metal worker,
ing the fact that the company hired women for lower-paying jobs in the meatpacking departments where they regularly had to carry boxes of meat weighing eighty to ninety pounds. Blue-collar males also sometimes masculinize their jobs through the use of foul language and pornography.45

The insistent quality of the masculinized image and culture of blue-collar jobs relates to the hidden injuries of class. In a society where masculinity is often measured by the size of a paycheck, white-collar men define the norm. "With their masculine identity and self-esteem undermined by their subordinate order-taking position in relation to higher-status males . . . men on the shop floor reconstruct their position as embodying true masculinity. They use the physical endurance and tolerance of discomfort required of their manual labor as signifying true masculinity."46

This is why women in traditionally male jobs regularly report men's egos are threatened when women do the job men have defined as proof they are "real men." A subway conductor reports, "[W]e were a threat . . . to their self-image. They saw themselves as doing a man's job. They had a big stake in believing that they were doing a job only the superior sex could handle emotionally as well as physically."47

Women who don't get the message often are subjected to severe sexual harassment designed to drive women out. Some of it is explicitly sexual, as when a co-worker twice exposed his genitals to one tradeswoman; another relieved himself against the women's changing-room wall; others "constantly" dropped their pants in front of a female electrician; a builder's foreman put his hand farther and farther into her underwear as he held her belt to steady her as she worked on window trim; a subway conductor was propositioned so insistently that she joked about giving a civil service exam, complete with filling fee and a physical to identify the most qualified candidate.48

But though much of the harassment was sexual, much was not. Much of it is simply dangerous, as when a police officer's partner aimed his gun at her to "see how last women can run"; or "when you are calling in for help and someone cuts you off . . . or they don't show up when you call for help"; when a female ironworker was forced to use single-handedly a sixty-pound piece of equipment (a "hell dog") that usually required operation by two people; or when tradeswomen's work partners intentionally drop heavy equipment in attempts to injure them. To quote a woman welder:

It's a form of harassment every time I pick up a sledgehammer and that prick laughs at me, you know. It's a form of harassment when the journeyman is supposed to be training me and it's real clear that he does not want to give me any information whatsoever. . . . It's a form of harassment when the working foreman puts me in a dangerous situation and tells me to do something in an improper way.

Molly Martin, an electrician and founder of Tradeswomen, Inc., explained the two distinct kinds of harassment as follows:

Whenever tradeswomen gather together. . . . one topic of conversation is certain to be sexual harassment: the uninvited touchings and requests for sexual favors that almost all of us have experienced sometime during our careers. But we also face another pervasive and sinister kind of harassment . . . aimed at us because we are women in a "man's job," and its function is to discourage us from staying in our trades.

The combination of various kinds of harassment produces "alarmingly high" rates of turnover of women in nontraditional blue-collar work. "No doubt about it," concludes a stationary engineer, "the work is a breeze, any woman who wanted to could do it, but the male environment adds a lot of stress to the job." A sprinkler fitter notes that some women left her apprenticeship program because they didn't like the work, "[b]ut for many I am sure the main reason is the man." Almost as many women leave nontraditional work as enter it; high turnover is the reason sex segregation in these jobs has declined only slightly.49

Another key issue is that the bulk of training in traditionally male blue-collar jobs is acquired informally on the job. "Thus, a woman's ability to succeed depends on the willingness of her supervisors and co-workers to teach her the relevant skills." Often they don't. An operating engineer reported, "In my entire year with that company my journeyman refused to answer my questions or do anything for me, except make my job harder." A sprinkler fitter recalled a time when she was assigned to do gofer work for two male apprentices junior to her. When she protested after a couple of days, she ended up with a bad character report and "serious bad vibes from most of the guys on the job." In another case, a worker was demoted to her previous job because she was unable to adequately perform the required tasks. Instead of helping this employee learn how to perform her new production job, her co-workers had locked her in a closet.50

Family Values: Designing Blue-Collar Jobs Around Men's Access to Family Work

As we have seen, masculine norms can be social as well as physical. To the extent blue-collar job ladders require uninterrupted market work and penalize workers for interruptions, working-class women who take time off for child rearing are barred from stepping onto them. This has a particularly strong impact because seniority often plays a crucial role in blue-collar work—in deciding who is eligible for what job, and in deciding who will be laid off or "bumped" from their current job to a less desirable one in the event of layoffs. Current seniority policies, under which many women lose their seniority forever if they interrupt their workforce participation, tend to keep mothers in low-status positions, where they are vulnerable to layoffs. Working-class women are particularly vulnerable because they generally have less education, and women with less education are more likely to take time off from market work (presumably because their wages are so low that they are left with little take-home pay after paying for infant care).51

Promotion tracks also tend to require a flow of family work mothers generally lack. Promotion in skilled and semiskilled blue-collar jobs typically depends not
on outside schooling but on on-the-job training. Skilled workers such as electricians and plumbers are trained through apprenticeships, many of which require nighttime classes for several years. This may contribute to the fact that women were only 7 percent of registered apprentices in 1991. Semi-skilled workers learn their jobs often in training programs that take place in overtime. This means that women are excluded from such training because they are less likely to have a family member available to care for their children.

Overtime also increasingly excludes women from many of the best factory jobs. The Bureau of Labor Statistics reported that factory workers in 1994 put in the highest levels of overtime ever registered in the thirty-eight years the agency has tracked it. Overtime has doubled since 1980 in the manufacturing sector overall. In recent years, some factory workers have been required to do so much overtime that even male workers have rebelled, saying that they want more time with their families; the statistics on mothers and overtime suggest that the rebellions did not take place until long after most mothers had quit. Overtime requirements are concentrated in "good" (male) factory jobs because employers aim to increase overtime to spread the load of benefits (which often approaches one-third of labor costs) over the maximum number of hours per employee in order to reduce costs.

Finally, sick leave policies in many traditionally male jobs are designed for adults without primary child-care responsibility. One study in a factory where blue-collar workers earned more than clerical workers found that few women requested transfers to the floor, because those workers were entitled to only two days of sick or personal leave, whereas clerical workers were entitled to twenty.

Requirements for full-time work also push women out of traditionally male jobs in factories and highly paid craft jobs. Only about 6 percent of skilled craft positions are available on part-time schedules. Blue-collar work also presents other scheduling issues that have been studied far less than those in white-collar jobs. A 1995 study found that almost half of low-income parents (compared with one-quarter of working-class and middle-class mothers and one-third of higher-income fathers) work on rotating schedules, which often creates severe difficulties in finding day care. For example, a study by DuPuit found that employees in manufacturing jobs had more difficulty balancing their work and family lives than other employees; rotating shifts and emergency care for dependents were cited as major difficulties. A study for the Labor Department found that high-income employees have greater access to flexibility than others, and that nonminimizers have greater access than minorities. "For single mothers with small children," said one steelworker, "the schedule is pure hell. Some might call it irony; I call it injustice: Single mothers who so desperately need these relatively well-paying jobs have to face impossible conditions. And no exceptions can be made. (Although I've seen a man get a 'special schedule' to accommodate his working wife.)" Fain noted that, when the steel mill where she worked closed down, some women went back to previous jobs "that pay less, but are less dirty, less dangerous, and, most importantly, have a decent work schedule—a schedule more compatible with raising kids."

The irony is that many craft jobs could easily be restructured in ways to make them compatible with the norm of parental care. Here's a woman operating engineer:

Now we've been in the trade . . . . I still enjoy both sides of my life. On my winter side (when operating engineers are typically laid off) I'm a laid-off, full-time mom. I cook and bake for my kids, and work at training my dogs. On my summer side . . . . I'm up and gone long before my husband Curt wakes up. He does all the morning chores on our small farm, gets the kids up and takes them to preschool.

Another woman, a carpenter, notes that one thing she likes about the job is that you can take a long vacation whenever you like with no job consequences. Many skilled craft workers travel from job to job; if you take a break between jobs or for the summer, no one cares.

In conclusion, even if employers were to select employees for "good" blue-collar jobs with no intentional discrimination whatsoever, and even if women in nontraditional jobs were subjected to severe sexual harassment, a disproportionate number of women would still be excluded from those positions because they are designed around men's physical and men's ability to maintain an unbroken full-time or overtime schedule while their wives (or ex-wives) care for their children. Although the mechanisms of exclusion are different in blue- and white-collar work, in each context the required schedule operates to exclude large numbers of women.

"WOMEN'S WORK" OFFERS A REFUGE FROM MASCULINE NORMS

Most women still work in jobs that are located near residential areas; are open to part-time workers; are easy to start, drop, and start again; and don't require skills that get stale with time.

A majority of working women in the United States hold low-paid, traditionally female jobs. In 1993, women were 69 percent of dental hygienists; 96 percent of secretaries, typists, and kindergarten teachers; and 69 percent of registered nurses, speech therapists, and billing clerks. Men were still 99 percent of auto mechanics; 97 percent of firefighters and airplane pilots; and over 90 percent of precision metal workers, surveying technicians, and sewage plant operators. Nearly 60 percent of women hold jobs in traditional women's work such as clerical, sales, and service occupations, which typically pay half to two-thirds of the wages in blue-collar craft work.

Classic studies of sex segregation by job category far underestimate the rate at which women work with other women in jobs that pay less than similar jobs staffed by men. Two national studies covering the years 1959 to 1983 found that 30 to 32 percent of women would have to change jobs to have the same job titles as men. A more recent study found that in North Carolina that number was 77 percent.

Studies often focus on the supposed psychological match between women and
the jobs traditionally held by them. In fact, masculine norms play an important role in keeping women in women's work. Women who stay where they “belong” avoid the virulent harassment experienced by women in nontraditional work. They do not have to deal with social patterns framed around sports, hunting, or other forms of masculine gender performance. They do not risk injury or discomfort from equipment designed around the bodies of men. They do not require women to have the flow of family work or the ability to move their families, privileges generally available to few mothers.  

Scheduling is one important factor keeping women in traditional women's work, which tends to have regular hours with little mandated overtime. Lawyers work lots of overtime; librarians do not. Autoworkers work lots of overtime, whereas waitresses do not. A British study noted that employers build gender into the way they structure hours: in male jobs, they achieve flexibility through overtime; in female ones, they do so through part-time work.  

Traditionally female work is also more likely to offer established part-time tracks. The jobs with readily available part-time options are traditional women's work: clerical, administrative, or retail nonprofessional work, or work in professions with a long history of female segregation, such as nursing and library science. Only 6 percent of workers in railroad, mining, and manufacturing are voluntary part-timers; 25 percent of those in the retail and wholesale trade are. Evidence also suggests that subsequent earnings are unaffected by part-time work in these traditional female fields, in sharp contrast to the situation in traditionally male fields.  

The third pattern is that in jobs traditionally held by women, taking time off work for childcare or child rearing does not knock a worker off a career path leading to a much better job. Nurses, librarians, retail sales workers, waitresses, and other women in traditional women's jobs typically can leave and reenter with few long-term consequences. The reason is that these are dead-end jobs with no career trajectory: “Extensive research demonstrates lack of advancement opportunity in all types of female-dominated low-paying jobs.” Jobs with more opportunities for promotion are more likely to be filled with males. The best men's jobs—blue- and white-collar—have career paths that often penalize career breaks and place the key years for career advancement at precisely the period when most people have young children.  

“Choosing” women's work typically allows workers to preserve dependable amounts of time for family life, to be able to leave market work completely without jeopardizing their ability to return, and to follow husbands without loss of investment in human capital. This “choice” also lets women avoid both job situations that require masculine gender performances and those with the virulent sexual harassment frequently seen in blue-collar work.  

Not surprisingly, women in traditionally female professions report lower role conflict than do women in male-dominated professions or women in nonprofessional jobs. They were the happiest group surveyed. Note, however, that traditional women's work did not offer more flexibility, autonomy, or unsupervised break time; it was too low-status for that. The gains of women who resolve work/family conflict by taking traditional women's work come at the expense of permanent consignment to low-status, low-wage, dead-end work. Workers in such pink-collar jobs did not report the high satisfaction levels of women in traditionally male professions such as nursing, social work, and library work.  

If a significant sector of the economy already accommodates people in women's social position; why not declare victory and go home? The reason is that women pay a steep price for jobs not framed around masculine norms. Schoolteachers and mothers who own small home-based businesses do not run the world. Nearly 60 percent of full-time female employees are paid less than $25,000 a year, and nearly 70 percent of the full-time female labor force is in low-paying occupational categories. Note that if this figure included part-time workers, the percentage of low-paid women would climb even higher. Nor do traditionally female jobs offer much chance of advancement. Women represent 75 percent of the workers in the jobs with the fewest advancement opportunities and only 5 percent of those in the jobs with the most.  

A final point is in order about how women avoid masculine norms. A sharply increasing number work in woman-owned businesses. The number of woman-owned businesses surged 43 percent in the five years before 1992, double the rate of growth for all except very large firms in the same period. The rate of growth of woman-owned businesses is four times faster than for businesses owned by males, and exceeds the national average in nearly every region and industry. In 1994 woman-owned businesses employed 35 percent more people than the Fortune 500 companies did worldwide. In 1975 women were about 25 percent of self-employed workers; today they account for about 33 percent. Today women own about one-third of all firms. While the top woman-owned businesses used to be in crafts, day care, and beauty salons, today they have shifted dramatically: Now women who own businesses tend to continue to do the white-collar and service work they did in their old jobs. While not all woman-owned businesses are structured to accommodate women's load of family work, many are. “The main thing is that I'm number one a mom and a wife,” said one business owner. Self-employed women are consistently more likely than other workers to be married with spouse present. They are also more likely to work part time. A study by the National Foundation of Women Business Owners found that women entrepreneurs are more likely than their male counterparts to offer flexible work arrangements. “Overall,” concluded another study, “the data suggest that self-employed women faced (or at least exercised) more choice in terms of hours worked.” The many women who start businesses so that they can do the work they want and have the schedule they need dramatize the pent-up productivity that can emerge if work is restructured to eliminate the traditional ideal-worker norm.  

The conclusion is dramatic, and rarely recognized: Most women work in workplaces that do not adhere to key elements of the masculine ideal-worker norm. Note that this is different from the human capital theory argument that women “choose” women's work solely because of their family responsibilities. That literature ignores the type of stereotyping experienced by Ann Hopkins in addition to
the well-documented sexual harassment of women in traditionally male blue-collar work (and sometimes in white-collar work as well). It also mixes up causation in a way that the analysis of domesticity can remedy. The human capital literature is a classic “choice” argument, which leaves domesticity outside the frame of reference. Once the analysis of domesticity is added back in, we see that women’s “choice” takes place in a context that requires of ideal workers the social power available to men, to relocate their families, for example, or to enjoy a flow of family work most fathers but few mothers enjoy. A system that requires workers to command the social power of men in order to get “good” jobs is one that discriminates against women. It does so both in the vernacular sense of being inconsistent with our ideals of gender equality and in the technical sense of having a disparate impact on women that is not justified by business necessity and that may violate federal antidiscrimination law. Before we reach the technical argument, however, let us address an issue that arises both in the policy context and in litigation. It may be well and good to reconceptualize “choice” as discrimination, but isn’t it just downright impractical in an era when the United States is part of a competitive global economy? The following section addresses this important issue.

IS IT FEASIBLE TO RESTRUCTURE THE WORKPLACE TO ELIMINATE MASculine NORMS?

When they were working on the Mars probe, they needed people on the job twenty-four hours a day. How do you think they did it? Job sharing. If we can do it on Mars, why not on earth?68

Andy Marks is a successful Washington lawyer with an intensive commercial litigation practice. Two part-time lawyers work with him at a senior counsel level on litigation matters. This is remarkable because the high-unchallenged common knowledge is that part-time work is impractical in litigation because lawsuits proceed according to court deadlines over which lawyers themselves often have little control.

None of which deterred Marks or his firm. “Both of these extremely talented and experienced attorneys were in the process of leaving their existing firms and were looking for a new firm that would enable them to spend more time at home with their young children than a full-time commitment would permit. We decided that we could and would hire them on a less than full-time basis.” In thinking this through, Marks recalled an incident several years earlier.

We had an outstanding woman associate who had been working with me on a piece of major litigation and who became involved in a second matter that required her to work two days a week outside the office for a different partner. I was faced with the choice of whether to have her continue to work on my case three days a week or to find a different associate who could devote full time to my case. I decided to take three days a week. And

then I realized: Virtually every associate who works with me works on cases for other partners and is therefore a part-time lawyer as far as my cases are concerned.69

All lawyers regularly find ways to accommodate the demands of other cases, finding a way to accommodate an attorney’s desire to work on less than a full-time basis is not all that different.

The part-time lawyers work for Marks a target number of hours per week, which means that they can handle the intense work periods characteristic of litigation. Then, when the crunch is over, they take time off. (Arthur Andersen, the accounting firm, has a slightly different approach, in which workers take half the client load instead of half the hours.) Marks’ associates like the arrangement because they get to spend time with their children. He likes it because he gets committed workers who do high-quality work.70

This story challenges the notion that it is impossible or too expensive to require employers to “accommodate women’s private lives.” Note how the old-fashioned formulation loads the issue. What’s at issue is not the private frolic of flighty women but the clash of two deeply held social norms, the norm of parental care and the ideal-worker norm.

Can we reconcile these norms?

Over the past twenty years many employers have become convinced that they can, and businesses have to take steps in that direction in the interests of maximum efficiency. In a highly respected survey, 76 percent of corporations agreed that they could not remain competitive in the 1990s without addressing work/family and diversity issues. A survey of two hundred human resources managers by the Conference Board, a business group, found that two-thirds named family-supportive policies as the single most important factor in attracting and retaining employees.71 This high level of interest is in response to expected shifts in composition of the work force in the twenty-first century. Because a high percentage of new entrants will be female, employers will have to expand their field of vision to include women and minorities.72

These realizations led to the growth of a new type of consultant, one specializing in work/family management, and a new focus on work/family issues in personnel departments. Prominent consultants and nonprofits working in the field include the Families & Work Institute, in New York; New Ways to Work, in San Francisco; Felice Schwartz, of Catalyst (whose proposal triggered the “mommy track” debate), in Boston; Fran Rodgers, of Work/Family Directions, in Boston; Susan Seitel, of Work & Family Connections, Inc., in Minneapolis; Dana Friedman, of Bright Horizons Family Solutions; and the group that includes Lotte Baily and others at the Sloan School at MIT and the Radcliffe Institute on Public Policy.

“Family-friendly” policies include some well-known benefits such as childbirth leave and part-time work. Newer options include telecommuting, where the employee works from home part or all of the time, and job sharing, where two people become jointly responsible for performing one job, and split the hours between