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## Men and Boys and the Ethical Demand for Social Justice

Samuel Vincent Jones

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# Men and Boys and the Ethical Demand for Social Justice

Samuel Vincent Jones\*

## Table of Contents

I. Introduction.....	507
II. Social Justice and the Neglect of Men and Boys .....	511
A. Today’s Women and Girls .....	514
B. Today’s Men and Boys .....	516
III. Finding a Solution for the Neglect and Alienation of Males .....	536
A. Causation .....	536
B. Solution.....	540
IV. Conclusion .....	543

## I. Introduction

A great weight of legal scholarship rests on the presupposition that women are an underrepresented group in a patriarchal society, and that current governmental policies do not permit women to completely avoid the ill effects of discrimination and exploitation.<sup>1</sup> Political discourse remains

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1. See e.g., Marisa Silenzi Cianciarulo, *Batterers as Agents of the State: Challenging the Public/Private Distinction in Intimate Partner Violence-Based Asylum Claims*, 35 HARV. J. L. & GENDER 117, 120–21 (2012) (asserting that the Obama administration should promulgate policies that grant fleeing women of domestic violence political asylum and refugee protection in the United States); Janet L. Dolgin & Katherine R. Dieterich, *The “Other” Within: Health Care Reform, Class, and the Politics of Reproduction*, 35 SEATTLE U. L. REV. 377, 378 (2012) (questioning whether the needs of a poor woman’s reproductive health care are adequately provided for under the Affordable Care Act); Olympia Duhart, *PTSD and Women Warriors: Causes, Controls, and a Congressional Cure*, 18 CARDOZO J.L. & GENDER 327, 330, 339–40, 343 (2012) (calling for the Obama administration to end combat exclusion policies that bar women from certain benefits in the United States military); Jessica Riffin, Note, *The Potential Impact of CEDAW Ratification on U.S. Employment Discrimination Law: Lessons from Canada*, 42 COLUM. HUM. RTS. L. REV. 541, 542 (2011) (explaining that the United States is one of seven countries that have failed to ratify the Convention on the Elimination of all Forms of Discrimination against Women);

interspersed with proclamations about a thriving “war on women.”<sup>2</sup> Feminist theorists convey the paradigmatic structure of American society as one in which female oppression is a constitutive and intrinsic feature of American culture.<sup>3</sup>

Implicit in the view that women and girls are victims of systematic discrimination and oppression,<sup>4</sup> is that men and boys are the “culprits.”<sup>5</sup> Social constructs and contemporary legal discourse are so suffused with claims that men and boys have denied women and girls equal opportunities to succeed that this *female-oppression-male-culprit* paradigm is rarely challenged.<sup>6</sup> Pervasive and persistent in nature, proponents of the *female-*

Rebecca Tsosie, *Indigenous Women and International Human Rights Law: The Challenges of Colonialism, Cultural Survival, and Self-Determination*, 15 UCLA INT’L L. & FOREIGN AFF. 187, 189, 217–18 (2010) (asserting that the Obama administration must consider Native American women’s rights within their respective cultural and historical contexts in formulating appropriate contemporary human rights policy); Adrien K. Wing & Peter P. Nadimi, *Women’s Rights in the Muslim World and the Age of Obama*, 20 TRANSNAT’L L. & CONTEMP. PROBS. 431, 447–48 (2011) (arguing that the Obama administration should improve foreign policy relative to Muslim women’s rights in education, labor, and politics).

2. See Terry O’Neill, *On International Women’s Day, NOW Calls for End to the “War on Women,”* NOW (Mar. 08, 2011), <http://now.org/press/03-11/03-08.html> (explaining the main theory behind the “war on women”).

3. See Catharine A. Mackinnon, *Reflections on Sex Equality Under the Law*, 100 Yale L.J. 1281, 1281–84 (1991) (asserting that to be female under American law is to be subordinated and oppressed); Cheryl Hanna, *The Price She Pays*, 10 SEATTLE J. FOR SOC. JUST. 815, 815 (2012) (claiming that the author’s female students “will be entering a male-dominated professional world where women often face barriers to partnership and other career opportunities”); Janet Benshoof, *U.S. Ratification of CEDAW: An Opportunity to Radically Reframe the Right to Equality Accorded Women Under the U.S. Constitution*, 35 N.Y.U. REV. L. & SOC. CHANGE 103, 104 (2011) (“[D]iscrimination against women is deeply embedded in American law . . . .”); Ann M. Piccard, *U.S. Ratification of CEDAW: From Bad to Worse?*, 28 LAW & INEQ. 119, 119 (2010) (“Discrimination against women flourishes in the United States today.”); ANDREA DWORKIN, INTERCOURSE, 155 (1987) (“The slit between [a female’s] legs . . . which means entry into her—intercourse—appears to be the key to women’s lower human status”); NAOMI WOLF, THE BEAUTY MYTH: HOW IMAGES OF BEAUTY ARE USED AGAINST WOMEN, 115 (2002) (“Women *are* under attack every day of our lives from ‘unseen aggressors’ . . . . Almost all working women are clustered in twenty low-status job categories; we *do* have an ‘invisible enemy’—institutional discrimination.”).

4. See Office of the Press Secretary, *Remarks by the President at Signing of Executive Order Creating the White House Council on Women and Girls*, THE WHITE HOUSE (Mar. 11, 2009), <http://www.whitehouse.gov/the-press-office/remarks-president-signing-executive-order-creating-white-house-council-women-and-gi> (quoting President Obama describing the “inequalities [against women that] stubbornly persist in this country”).

5. See CHRISTINA HOFF SOMMERS, WHO STOLE FEMINISM? HOW WOMEN HAVE BETRAYED WOMEN 41–42 (1994) (Claiming that feminist theorists have consistently advanced a perspective of society based on all women being “victims,” and men being the “culprits”).

6. Suzanne Venker and Phyllis Schlafly posit that the belief that women remain

*oppression-male-culprit* paradigm advance a singular framework for the distribution of goods and services that largely disregards male interests and directs notions of right and wrong from an oppressed female-centered perspective. The performative outcome of this culturally accepted brand of reasoning is reflected in the enactment of numerous governmental policies earmarked exclusively or predominantly for the benefit of women and girls with the purported intent to dismantle a social hierarchy that supposedly favors men and boys.<sup>7</sup>

Contrary to what *female-oppression-male-culprit* reasoning suggests, men and boys also suffer from systematic neglect, discrimination, and oppression.<sup>8</sup> The notion that many males may be equally as oppressed as

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victims of staunch discrimination is rarely challenged because the view is so embedded in American culture:

According to feminists, women... have been oppressed for centuries. We're told not enough progress has been made and that society still hasn't leveled the playing field. This philosophy is so embedded in our culture that Americans don't question it. We don't even label it "feminist" to think this way; it's just commonplace to believe women suffer discrimination . . . .

. . . In the meantime, buried beneath the surface lies the truth: American women are the most fortunate human beings who have ever lived. No one has it better. No one.

SUZANNE VENKER & PHYLLIS SCHLAFELY, *THE FLIPSIDE OF FEMINISM: WHAT CONSERVATIVE WOMEN KNOW—AND MEN CAN'T SAY* 13–14 (2011).

7. See *infra* notes 12–19 and accompanying text (discussing legislation and accomplishments of the Obama administration designed to improve the quality of life for women and girls). Although the terms, “men” and “women” as used in this Essay generally refers to self-identified heterosexual and homosexual men and women, the author recognizes that homosexual men may face unique forms of discrimination and neglect that may not be addressed in this Essay.

8. See e.g., Nancy E. Dowd, *What Men: The Essentialist Error of the 'End of Men,'* 93 B.U. L. Rev. 1205 (2013) (reasoning that Black males experience a subordinated existence characterized by “oppression and violent victimization” that is “grounded in the undermining of opportunity and harsh repression of Black boys”); Samuel Vincent Jones, *The Invisible Man: The Conscious Neglect of Men and Boys in the War on Human Trafficking*, 2010 UTAH L. REV. 1143, 1149–1158 (2010) (detailing episodes of male oppression); see also Michael Matthews, *The Untold Story of Military Sexual Assault*, *The New York Times*, A23 (Nov. 23, 2013) (observing that the majority of sexual assault victims in the U.S. military are men); Christina Hoff Sommers, *Schools Has Become Too Hostile For Boys*, *Times*, (Aug. 13, 2014) (stating that “across the country schools are policing and punishing the distinctive, assertive sociability of boys”), available at <http://ideas.time.com/2013/08/19/school-has-become-too-hostile-to-boys/>; Amy Norton, *Boys Have Higher Death Rates, Study Shows*, *Health Day*, September 2, 2013, available at <http://consumer.healthday.com/senior-citizen-information-31/misc-death-and-dying-news-172/boys-show-higher-death-rates-from-many-causes-679751.html> (observing that boys are more vulnerable to dying young than girls); NANCY LEVIT, *THE GENDER LINE*, 11–12 (1998)

some females and that many females may be equally as privileged as some males, is culturally discomfoting to admit, and largely anathema to contemporary academic discourse. Therefore, we know very little about male discrimination, oppression, and neglect.

This essay makes what some might consider a bold and novel assertion. Relying on fact-based analysis of present day social conditions, it argues that the *female-oppression-male-culprit* paradigm is antiquated and injurious to both men and women. It claims that existing conceptions of American society in which the vast majority of the nation's men and boys are victimless and empowered, and the core of the nation's women and girls are victims and disempowered, cannot be fundamentally or morally justified. It will demonstrate that today's regimented imperative for addressing gender discrimination and social injustice by allocating legal rights and entitlements exclusively to women and girls, without consideration of men and boys, degrades human dignity and reinforces gender discrimination and social injustice.<sup>9</sup> It explicates how the urgency created by expanding economic woes and social afflictions affecting men and boys, as well as women and girls, renders it necessary for today's political leaders to advance legislation that addresses the needs of *all* Americans regardless of their gender.<sup>10</sup> It claims that systemic abuse of the government's privilege to do otherwise has so obscured elements of gender discrimination and social injustice relative to men, married women, and mothers, that the survivability of the traditional American family appears compromised.<sup>11</sup>

This essay does not seek to compare the welfare of women to that of men, insinuate that the two groups are in competition, or claim that one group is more deserving than the other group. Nor is it the intent of this essay to propose a specific policy revision, or, more broadly, return men to the position of absolute power that led to the generations-long repression of

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(observing that some feminist scholars concede that males may be oppressed, but readily dismiss or ignore it).

9. See generally The White House, *Obama Administration Record for Women and Girls*, [http://www.whitehouse.gov/sites/default/files/docs/womens\\_record\\_1.pdf](http://www.whitehouse.gov/sites/default/files/docs/womens_record_1.pdf) (last visited Oct. 23, 2013) (listing the accomplishments of the Obama administration in supporting women and girls).

10. See discussion *infra* notes 37–55, 63–71 and accompanying text (discussing how policies purportedly aimed at helping women and girls fail to address the needs of men and boys).

11. See discussion *infra* Part II (discussing how legislative policies focusing on improving the welfare of women and girls ignore the fact that men are also vulnerable to exploitation, alienation, and systematic injustice).

women and disrespect for female dignity. Put succinctly, this essay is not a challenge to the overall meritocracy of feminist jurisprudence or the women's movement. Rather, this essay is a contribution to the emerging men's movement, a philosophical incursion into our conceptual mapping relative to social justice and male oppression.

This essay situates its discussion along a jurisprudential presupposition that the advancement of women and girls is, and should remain, a meritorious component of political government. The discussion is presented in two parts. Part II highlights degrees to which men and boys are vulnerable to exploitation, alienation, and systemic injustice—matters that are also worthy of governmental attention, but widely neglected. In so doing, it explores the manner by which the ignominy of male culture and presumptions about female oppression facilitate discrimination against males in education, employment, criminal justice administration, media, and family planning; and infringe upon the liberty and expectation interest of women who are in consortium with men and boys, such as married women and mothers.<sup>12</sup> Part III explores potential causes of and solutions to cultural inclinations to neglect male oppression despite widespread evidence of its occurrence. In doing so, it challenges contemporary notions of fairness and conceptions about equality, and their influence on the distribution of legal rights. It argues for a rights-distribution model to addressing social injustice based on an abiding respect for human dignity rather than notions of fairness.

## II. *Social Justice and the Neglect of Men and Boys*

Few would reasonably deny that because the nation's executive and legislative agendas are funded primarily through taxes collected from both women and men, national policymakers are legally and morally obligated to advance laws and policies that respect the rights, privileges, and dignity of all Americans, regardless of their gender. If one examines contemporary approaches to curtailing gender discrimination and advancing social justice,<sup>13</sup> though, one can comfortably conclude that the nation's massive

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12. See discussion *infra* Part III.B (exploring potential solutions to cultural inclinations to neglect male oppression despite widespread evidence of its occurrence).

13. See, e.g., The White House Council on Women and Girls, *Keeping America's Women Moving Forward: The Key to an Economy Built to Last*, THE WHITE HOUSE (Apr. 2012), [http://www.whitehouse.gov/sites/default/files/email-files/womens\\_report\\_final\\_for\\_print.pdf](http://www.whitehouse.gov/sites/default/files/email-files/womens_report_final_for_print.pdf) (describing the Obama administration's approach to improving quality of life for women and girls).

economic and social justice initiatives have not only been inadequate in their coverage, but have also contributed to the denial of rights and benefits to men and boys (the gender minority), while elevating and bestowing rights and benefits upon women and girls (the gender majority) in a manner that harms both groups. This surprisingly unchallenged arrangement indubitably establishes today's executive branch of government as the nation's chief investor in gender discrimination.

To illustrate, in the past several years, the executive branch of the U.S. government has amassed a significant record of accomplishments specifically designed to improve the quality of life of women and girls, while seemingly ignoring the nation's troubled population of men and boys.<sup>14</sup> It both established the Council on Women and Girls, which streamlines federal grants, programs, and policies that address female concerns; and promoted the White House Project, which focuses on women's job success.<sup>15</sup> It advanced the Affordable Care Act<sup>16</sup> and the Lilly Ledbetter Fair Pay Act,<sup>17</sup> and also funded the United States Department of Labor Women's Bureau<sup>18</sup> and the Department of Human Services Office on

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14. *See id.* (outlining the Obama administration's work over the past three years to promote gender equality for women, but providing no mention of equality for men).

15. *See* Exec. Order No. 13506, 74 Fed. Reg. 11,271 (Mar. 11, 2009) (establishing The White House Counsel on Women and Girls); *see also* The White House, *About the Council on Women and Girls*, [www.whitehouse.gov/administration/eop/cwg/about](http://www.whitehouse.gov/administration/eop/cwg/about) (last visited Oct. 31, 2013) (providing a general overview of the history and purpose of The White House Council on Women and Girls); *The White House Project: About Us*, THE WHITE HOUSE PROJECT, <http://thewhitehouseproject.org/about-us/> (last visited Mar. 4, 2013). The White House Project was recently shut down.

16. Patient Protection and Affordable Care Act (Affordable Care Act), Pub. L. No. 111-148, 124 Stat. 119 (2010) (codified at 26 U.S.C. § 5000A (Supp. IV 2011)). Although the Affordable Care Act is facially gender-neutral, the executive branch touted it as "Health Reform for American Women." *See* The White House, *The Affordable Care Act Gives Women Greater Control over Their Own Health Care*, [http://www.whitehouse.gov/files/documents/health\\_reform\\_for\\_women.pdf](http://www.whitehouse.gov/files/documents/health_reform_for_women.pdf) (last visited Oct. 24, 2013).

17. Lilly Ledbetter Fair Pay Restoration Act of 2009, Pub. L. No. 111-2, 123 Stat. 5 (2009) (codified at 42 U.S.C. § 2000e-5 (Supp. III 2010) and scattered sections of 29 U.S.C.). Although the text of the Lilly Ledbetter Act is gender neutral, it is advanced and promoted as a legislative tool designed to protect women. *See, e.g.*, The White House, *Civil Rights*, <http://www.whitehouse.gov/issues/civil-rights> (last visited Oct. 31, 2013) (expressing that the Act "empowers women to recover wages lost to discrimination").

18. *See* Nat'l Women's Law Ctr., *President Obama's Fiscal Year 2012 Budget and H.R. 1, the Continuing Resolution: A Tale of Two Visions* (Feb. 18, 2011), <http://www.nwlc.org/resource/president-obama's-fiscal-year-2012-budget-and-hr-1-continuing-resolution-tale-two-visions> ("President Obama's budget generally protects key programs for women and girls.").

Women's Health.<sup>19</sup> The White House hosted a forum on women and the economy to discuss ways in which the executive branch could create economic security and prosperity for women.<sup>20</sup> A record number of women were nominated for various positions within the federal judiciary, including Supreme Court Justices Sonia Sotomayor and Elena Kagan.<sup>21</sup> The executive branch subsidized the Department of Justice's Office on Violence Against Women and supported reauthorization of the Violence Against Women Act.<sup>22</sup> Similarly, in response to claims that women are not receiving equal access to higher education, the executive branch, via a policy directive commonly referred to as the "Dear Colleague" letter, construed Title IX of the Educational Amendments of 1972<sup>23</sup> to require colleges and universities to resolve complaints of sexual harassment and sexual violence within approximately sixty days, using a preponderance-of-the-evidence standard.<sup>24</sup>

For some Americans, these efforts might appear impressive.<sup>25</sup> For other Americans, such as men, wives, or mothers, the most salient feature

19. Office on Women's Health, *About Us*, U.S. DEP'T OF HEALTH & HUMAN SERVS., [www.womenshealth.gov/about-us/](http://www.womenshealth.gov/about-us/) (last visited Oct. 31, 2013).

20. See Office of the Press Sec'y, *White House Hosts Forum on Women and the Economy*, THE WHITE HOUSE (Apr. 4, 2012), <http://www.whitehouse.gov/the-press-office/2012/04/04/white-house-hosts-forum-women-and-economy> (detailing the speakers and events planned for the night).

21. See Amanda Terkel, *Obama Appoints Record Number of Women Judges to Federal Bench*, HUFFINGTON POST (Sept. 10, 2012, 6:24 PM), [http://www.huffingtonpost.com/2012/09/10/obama-women-judges-stephanie-rose\\_n\\_1792063.html](http://www.huffingtonpost.com/2012/09/10/obama-women-judges-stephanie-rose_n_1792063.html) (discussing Obama's selection of women judges); *accord* *Obama Picks Elena Kagan for Supreme Court*, NBC NEWS (May 10, 2010, 5:53 PM), <http://www.msnbc.msn.com/id/36967616/ns/politics-supreme-court/t/obama-picks-elena-kagan-supreme-court/#.UILpM6TyaFA>; *Obama Nominates Sonia Sotomayor to Supreme Court*, CNN POLITICS (May 26, 2009, 8:27 PM), [http://articles.cnn.com/2009-05-26/politics/supreme.court\\_1\\_judge-diane-wood-supreme-court-judge-sonia-sotomayor?\\_s=PM:POLITICS](http://articles.cnn.com/2009-05-26/politics/supreme.court_1_judge-diane-wood-supreme-court-judge-sonia-sotomayor?_s=PM:POLITICS).

22. See Lynn Rosenthal, *Reauthorizing the Violence Against Women Act*, THE WHITE HOUSE (Nov. 30, 2011, 1:22 PM), <http://www.whitehouse.gov/blog/2011/11/30/reauthorizing-violence-against-women-act> (stating that while progress has been made on the issue, violence against women is still a problem).

23. Educational Amendments of 1972, Pub. L. No. 92-318, tit. IX, 86 Stat. 235, 373-75 (codified as amended at 20 U.S.C. §§ 1681-1688 (2006) and scattered sections of 29 U.S.C.).

24. See Office for Civil Rights, *Dear Colleague Letter: Sexual Violence*, U.S. DEP'T OF EDUC. (Apr. 4, 2011), <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf> (expressing a desire to require colleges and universities to speed up the investigative process of sexual assault inquiries).

25. See Shaila Dewan, *In Weak Economy, an Opening to Court Votes of Single Women*, N.Y. TIMES (Aug. 7, 2012), [http://www.nytimes.com/2012/08/07/us/politics/in-weak-economy-an-opening-to-court-votes-of-single-women.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2012/08/07/us/politics/in-weak-economy-an-opening-to-court-votes-of-single-women.html?pagewanted=all&_r=0)

of today's effort to quell social injustice appear to rest in the executive branch's enduring effort to praise women and girls as a group of empowered and intelligent individuals alongside a ubiquitous and unjustifiable attempt to regard them as America's most economically needy or socially disadvantaged.<sup>26</sup> Although women and girls have historically endured significant levels of suffering and discrimination, today's educational, professional, and wealth opportunities for women and girls appear reasonably comparable to or greater than opportunities available to men and boys.<sup>27</sup>

#### A. *Today's Women and Girls*

As some social theorists have observed, "because of affirmative action, mandates about equal pay, equal educational opportunity, and the like," economic and social growth opportunities for women have vastly improved and outpaced opportunities for men.<sup>28</sup> For the first time in U.S. history, women constitute the majority of citizens,<sup>29</sup> voters in presidential elections,<sup>30</sup> and college students.<sup>31</sup> Women hold more bachelors and advanced degrees than men, and the number of male and female law and medical students is essentially equal.<sup>32</sup> Approximately half of middle-class

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(stating that single women are more likely to support President Obama perhaps because they believe he is more likely to protect women's rights).

26. See Campbell Brown, *Obama: Stop Condescending to Women*, N.Y. TIMES (May 19, 2012), <http://www.nytimes.com/2012/05/20/opinion/sunday/obama-condescending-to-women.html> (stating that the President can sound paternalistic when he discusses the issues facing women).

27. See Jennifer Homans, *A Woman's Place*, N.Y. TIMES (Sept. 13, 2012), [http://www.nytimes.com/2012/09/16/books/review/the-end-of-men-by-hanna-rosin.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2012/09/16/books/review/the-end-of-men-by-hanna-rosin.html?pagewanted=all&_r=0) (reviewing HANNA ROSIN, *THE END OF MEN* (2012)).

28. LIONEL TIGER, *THE DECLINE OF MALES: THE FIRST LOOK AT AN UNEXPECTED NEW WORLD FOR MEN AND WOMEN* 187 (1999).

29. See U.S. Census Bureau, *USA Quick Facts*, <http://quickfacts.census.gov/qfd/states/00000.html> (last visited Jan. 20, 2013) (indicating that, according to the 2012 Census, women make up 50.8% of the U.S. population).

30. See Linda Hirshman, *16 Ways of Looking at a Female Voter*, N.Y. TIMES (Feb. 3, 2008), <http://www.nytimes.com/2008/02/03/magazine/03womenvoters-t.html?pagewanted=all> (discussing women voters and the ways they affect election results).

31. See Daniel de Vise, *More Women Than Men Got PhDs Last Year*, WASH. POST (Sept. 14, 2010), <http://www.washingtonpost.com/wp-dyn/content/article/2010/09/13/AR2010091306555.html> (finding that women now hold a nearly three to two majority in undergraduate and graduate education).

32. See *Women Pull Even by Degree But Despite Education Gains, They Lag Men in Pay*, CHI. TRIB., Apr. 21, 2010, available at 2010 WLNR 8210065 ("Women are now just as likely as men to have completed college and to hold an advanced degree, part of an

wives are breadwinners,<sup>33</sup> and women hold the majority of all jobs, with more than half of them being managerial or professional jobs.<sup>34</sup> In addition, in 147 of the 150 major cities in the United States, single women without children earn eight percent to twenty percent more compensation than their male counterparts,<sup>35</sup> and some studies show that women account for more than eighty-five percent of consumer spending.<sup>36</sup> The purported gender-wage gap is now accepted among many as more of a political fiction than a fact, as studies reveal that pay disparities between women and men are predominantly the result of the gender-hour gap and personal choices rather than gender discrimination.<sup>37</sup> And, although more progress is needed, there has been a demonstrative decrease in violence against women.<sup>38</sup>

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accelerating trend of educational gains that have shielded women from recent job losses.”).

33. See Susan Gregory Thomas, *When the Wife Has a Fatter Paycheck*, WALL ST. J. (updated July 27, 2012), available at <http://online.wsj.com/article/SB10000872396390444873204577537161203859878.html> (discussing gender roles and the effects of the woman making more than her husband on a modern marriage); see also *Labor Force Statistics from the Current Population Survey*, BUREAU OF LABOR STAT. (Nov. 20, 2012), [http://data.bls.gov/cgi-bin/print.pl/cps/wives\\_earn\\_more.htm](http://data.bls.gov/cgi-bin/print.pl/cps/wives_earn_more.htm) (reporting that the percentage of wives who earn more than their husbands continues to increase).

34. See Hanna Rosin, *The End of Men*, THE ATLANTIC (July/Aug. 2010), <http://www.theatlantic.com/magazine/archive/2010/07/the-end-of-men/8135/> (noting that in 2010 women became the majority of the workforce for the first time in U.S. history).

35. See Belinda Luscombe, *Workplace Salaries: At Last, Women On Top*, TIME (Sept. 1, 2010), <http://www.time.com/time/business/article/0,8599,2015274,00.html> (stating that single young women in urban areas without children earn more than men); see also Carrie Lukas, *There Is No Male-Female Wage Gap*, WALL ST. J. (Apr. 12, 2011), <http://online.wsj.com/article/SB10001424052748704415104576250672504707048.html> (reporting that a “study of single, childless urban workers between the ages of 22 and 30 . . . found that women earned . . . 8% more than their male counterparts”).

36. See Andrea Learned, *The Six Costliest Mistakes You Can Make in Marketing to Women*, INC.COM (Jan. 2, 2003), [www.inc.com/articles/2003/01/25019.html](http://www.inc.com/articles/2003/01/25019.html) (finding women account for more than 85% of purchasing decisions); but see Carl Bialik, *Who Makes the Call at the Mall, Men or Women?*, WALL ST. J. (Apr. 23, 2011), <http://online.wsj.com/article/SB10001424052748703521304576278964279316994.html> (suggesting that research showing women are more likely to control household spending decisions may be inaccurate).

37. See Kate Bolick, *All the Single Ladies*, THE ATLANTIC (Nov. 2011), <http://www.theatlantic.com/magazine/archive/2011/11/all-the-single-ladies/308654/> (“In 2008, women still earned just 77 cents to the male dollar—but that figure doesn’t account for the difference in hours worked, or the fact that women tend to choose lower-paying fields like nursing or education.”); Kay Hymowitz, *Why Women Make Less Than Men*, WALL ST. J. (updated Apr. 26, 2012), available at <http://online.wsj.com/article/SB10001424052702303592404577361883019414296.html>; Carrie Lukas, *supra* note 35; Lisa Quast, *Debunking Myths Of Gender Equality: Are Personal Choices And Preferences What’s Really Holding Women Back From Achieving Parity At Work?*, FORBES.COM (Mar. 14, 2011), [www.forbes.com/sites/lisaquast/2011/03/14/debunking-myths-of-gender-equality-](http://www.forbes.com/sites/lisaquast/2011/03/14/debunking-myths-of-gender-equality-)

### B. Today's Men and Boys

Meanwhile, as executive branch policies and initiatives purportedly aimed at curtailing social injustice continue to be earmarked almost exclusively for women and girls, America's men and boys are suffering at alarming levels and appear relegated to an enfeebled state. For example, today men are more likely than women to become victims of crime;<sup>39</sup> men face substantially higher risks of violence,<sup>40</sup> imprisonment,<sup>41</sup> capital punishment,<sup>42</sup> murder,<sup>43</sup> death from hate crimes,<sup>44</sup> accidents,<sup>45</sup> heart

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are-personal-choices-and-preferences-whats-really-holding-women-back-from-achieving-parity-at-work; Christina Hoff Sommers, Op-Ed., *Fair Pay Isn't Always Equal Pay*, N.Y. TIMES (Sept. 21, 2010), <http://www.nytimes.com/2010/09/22/opinion/22Sommers.html>.

38. See Shannon Catalano et al., *Female Victims of Violence*, BUREAU OF JUST. STAT., 2-3 (revised Oct. 23, 2009), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/fvv.pdf> (stating nonfatal partner violence against women decreased 53 percent and fatal intimate partner violence against women decreased 34 percent between 1993 and 2008); see also Jennifer L. Truman, *Criminal Victimization, 2010*, BUREAU OF JUST. STAT., tbl. 6 (Sept. 2011), <http://bjs.ojp.usdoj.gov/content/pub/pdf/cv10.pdf> (finding the rate of intimate partner violence against women decreased from 2009 to 2010); see also STEPHEN BASKERVILLE, TAKEN INTO CUSTODY: THE WAR AGAINST FATHERS, MARRIAGE, AND THE FAMILY, at 168 (2007) (“‘Domestic Violence’ is now a vast industry, funded through numerous interlocking government programs at the federal, state, and local levels and by private foundations and transnational organizations. Yet there is little indication of any serious problem other than what is connected with divorce and custody. ‘There is not an epidemic of domestic violence,’ [remarks retired] Judge Milton Raphaelson.” (internal citations omitted)).

39. See Nat’l Inst. of Justice, *Victims and Victimization*, U.S. DEP’T OF JUST. (Sept. 20, 2010), <http://www.nij.gov/topics/victims-victimization/welcome.htm> (discussing the rising number of men that are the victims of crime); Bruce Watson, *A Hidden Crime: Domestic Violence Against Men Is a Growing Problem*, DAILY FIN. (Jan. 30, 2010), <http://www.dailyfinance.com/2010/01/30/a-hidden-crime-domestic-violence-against-men-is-a-growing-probl> (indicating, likewise, that crimes against men are on the rise).

40. See Nat’l Inst. of Justice, *supra* note 39 (discussing men being at higher risk of violence than women).

41. See Todd D. Minton, *Jail Inmates at Midyear 2011—Statistical Tables*, BUREAU OF JUST. STAT. (Apr. 2012), <http://www.bjs.gov/content/pub/pdf/jim11st.pdf> (discussing the rise in imprisonment among males).

42. See *Women and the Death Penalty*, DEATH PENALTY INFO. CTR., <http://www.deathpenaltyinfo.org/women-and-death-penalty> (last visited Jan. 10, 2013) (finding that as of January 2013 women made up 2.02% of the death row population).

43. See *Homicide Trends in the United States, 1980-2008*, BUREAU OF JUST. STAT., (Nov. 16, 2011), available at <http://bjs.ojp.usdoj.gov/content/homicide/gender.cfm> (last visited Jan. 10, 2013) (indicating men are at higher risk of being murdered than women).

44. See Lynn Langton & Michael Planty, *Hate Crime, 2003-2009*, BUREAU OF JUST. STAT., tbl. 9 (June 2011), <http://bjs.ojp.usdoj.gov/content/pub/pdf/hc0309.pdf><http://bjs.ojp.usdoj.gov/content/pub/pdf/hc0309.pdf> (stating males experienced a higher rate of violent hate crime victimizations than females).

disease,<sup>46</sup> cancer,<sup>47</sup> and suicide than women.<sup>48</sup> Men also represent more than ninety percent of the thousands of Americans that die each year in the workplace,<sup>49</sup> and held approximately seventy-five percent of the jobs that were terminated during the most recent recession.<sup>50</sup> Median wages for men between the ages of twenty-five and thirty-four has decreased approximately twenty-five percent, with one-third of them living at or below the poverty line.<sup>51</sup> In addition, single male homelessness<sup>52</sup> and suicide rates continue to be disproportionately high<sup>53</sup>—a catastrophe underscored by the unusual number of professional male athlete suicides<sup>54</sup>

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45. See *Home Safety Fact Sheet*, SAFE KIDS WORLDWIDE, <http://www.safekids.org/sites/default/files/documents/2013%20Home.pdf> (illustrating men are also at higher risk of accidents).

46. See *Heart Disease Facts*, CTRS. FOR DISEASE CONTROL & PREVENTION, <http://www.cdc.gov/heartdisease/facts.htm> (last visited Jan. 28, 2013) (indicating men are at higher risk for heart disease than women); *Why do more men die from heart disease than women?*, SCIENCEBLOG.COM (Sept. 2001), <http://scienceblog.com/community/older/2001/A/200111196.html>.

47. See Steven Reinberg, *Study: More U.S. Men Die from Cancer than Women*, USA TODAY (July 13, 2011), <http://www.usatoday.com/news/health/medical/health/medical/cancer/story/2011/07/Study-More-US-men-die-from-cancer-than-women/49347822/1> (concluding more men die from cancer than women).

48. See *Suicide in the U.S.: Statistics and Prevention*, NAT'L INST. OF MENTAL HEALTH, (last updated Sept. 27, 2010), <http://www.nimh.nih.gov/health/publications/suicide-in-the-us-statistics-and-prevention/index.shtml> (discussing suicide rates for men and women).

49. See Sara Saulcy, *Occupational Fatalities in the U.S.*, WYO. DEPARTMENT OF EMP., RES. & PLAN. Vol. 42 No. 3 (2005), available at <http://doe.state.wy.us/lmi/0305/a1.htm> (noting that men are more likely to die at work than women).

50. See Rosin, *supra* note 34 (“[T]he evidence is all around you. It can be found, most immediately, in the wreckage of the Great Recession, in which three-quarters of the 8 million jobs lost were lost by men.”); see also Ed Stoddard, *Blue Collar U.S. Males Lose More Ground*, REUTERS.COM (May 18, 2009), <http://www.reuters.com/article/2009/05/18/usa-unemployment-men-idUSN1450507420090518> (stating that the unemployment rate for adult men was 9.4 percent versus 8.9 percent for all workers).

51. See Tiger, *supra* note 28, at 127 (noting that the median age for men in this age group is decreasing).

52. See *Who is Homeless?*, NAT'L COAL. FOR THE HOMELESS (Aug. 2007), <http://www.nationalhomeless.org/publications/facts/Whois.pdf> (discussing the increase in homelessness among single males).

53. See Katie Drummond, *Suicide Rate Greater Among Divorced Men, Research Finds*, AOL NEWS (Mar. 10, 2010), <http://www.aolnews.com/2010/03/10/suicide-rate-greater-among-divorced-men-research-finds> (noting suicide rates are also higher among single males).

54. See Doug Glanville, *When an Athlete Dies*, TIME (Jan. 3, 2012), <http://ideas.time.com/2012/01/03/when-an-athlete-dies/http://ideas.time.com/2012/01/03/when-an-athlete-dies/> (stating that the suicide rate among major league ball players and ex-NFL players is

and the high number of suicides within the heavily male-populated military veterans' community.<sup>55</sup> The number of military veteran suicides not only exceeds the number of American combat fatalities,<sup>56</sup> but is arguably linked to an unemployment rate among military veterans greater than that of the national average.<sup>57</sup> Such dismal conditions have harmed not only America's men, but also the traditional American family and society at large.<sup>58</sup>

Social theorists note that although there is a general reluctance in American society to modulate the role that financial resources play in the potential for American men to attract and marry American women, it has proven to be a critical factor.<sup>59</sup> As today's men endure a substantial decline in living conditions, many women are losing interest in marriage, thus leaving the traditional American family in a compromised state.<sup>60</sup> According to some social theorists, the nation's "explosion of male joblessness and . . . steep decline in men's life prospects" have led women "to embrace new ideas about romance and family" and in the process reject "'traditional' marriage as society's highest ideal."<sup>61</sup> The pervasive "I don't need a man" mindset subverts opportunities for men and women to explore

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above the national average).

55. See Luis Martinez & Amy Bingham, *U.S. Veterans: By the Numbers*, ABC NEWS (Nov. 11, 2011), <http://abcnews.go.com/Politics/us-veterans-numbers/story?id=14928136#4> (stating that for every 100,000 of Iraq and Afghanistan veterans using VA healthcare, thirty-eight committed suicide versus only 11.5 of every 100,000 for the general public); see also Deborah Dupre, *Veteran Suicides Exceed Combat Deaths: 18 Per Day*, EXAMINER.COM (May 29, 2011), <http://www.examiner.com/human-rights-in-national/eighteen-vets-per-day-commit-suicide> (stating that 1,000 former soldiers attempt suicide every month).

56. See *Faces of the Fallen*, WASH. POST, <http://apps.washingtonpost.com/national/fallen/> (last visited Oct. 24, 2013) (reporting the current number of casualties from the Iraq and Afghanistan wars at 6,748).

57. See Martinez & Bingham, *supra* note 55 (discussing suicide and unemployment rates among male veterans).

58. See *The Characteristics and Needs of Families Experiencing Homelessness*, THE NAT'L CTR. ON FAMILY HOMELESSNESS, 5–6, <http://www.familyhomelessness.org/media/306.pdf> (last visited Jan. 28, 2013) (explaining the impact of homelessness on families); Pierre Baume, *Suicide: A Crisis for the Whole Family; Should Suicide Survivors Be Managed Differently?*, UNIV. OF HAW., 279–80, <http://www.hawaii.edu/hivandaids/Suicide%20%20A%20Crisis%20For%20The%20Whole%20Family%20%20Should%20Suicide%20Survivors.pdf> (last visited Jan. 29, 2013).

59. See TIGER, *supra* note 28, at 128 (concluding that financial resources are a critical factor in attracting mates).

60. See Bolick, *supra* note 37 (discussing a lack of interest in marriage among women, thereby destabilizing the traditional American family).

61. *Id.*

their commonalities and rightfully consider how sharing results in individual and collective success, as well as likely being harmful to children.<sup>62</sup> The shift in attitudes among American women, whereby they “no longer plan for marriage” but “focus solely on their identities and careers,” is fueled by an ideology that husbands and children will only hold women back and prevent them from attaining or sustaining economic prosperity and social freedom.<sup>63</sup> Studies reveal that many American women, with the fastest growing demographic group being Caucasian middle-class women, are now choosing to have children outside of marriage and raise them single-handedly rather than with a man, whom they may perceive as more an economic burden than a benefit; while other American women are simply choosing to opt out of their parental responsibilities after they become a parent.<sup>64</sup>

Legitimate debate now exists as to whether the blame for today’s record-low marriage rates, rising number of single-parent households, and neglected population of underperforming children has been unfairly ascribed to fathers (as some policymakers have suggested), as children from single-parent households tend to be less successful.<sup>65</sup> Social theorists

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62. See Appelbaum, *supra* note 64 (positing that women are choosing to raise children themselves because, in this economy, men are less successful and less attractive partners).

63. See VENKER, *supra* note 6, at 75 (explaining the new way of thought some women have regarding marriage holding back their career pursuits).

64. See Binyamin Appelbaum, *Study of Men’s Falling Income Cites Single Parents*, N.Y. TIMES (Mar. 20, 2013), available at [http://www.nytimes.com/2013/03/21/business/economy/as-men-lose-economic-ground-clues-in-the-family.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2013/03/21/business/economy/as-men-lose-economic-ground-clues-in-the-family.html?pagewanted=all&_r=0) (reporting that only “63 percent of children lived in a household with two parents in 2010, down from 82 percent in 1970” and that women are choosing to be single mothers as men have become less economically successful); Jason DeParle, *Two Classes, Divided by ‘I Do,’* N.Y. TIMES (July 14, 2012), available at <http://www.nytimes.com/2012/07/15/us/two-classes-in-america-divided-by-i-do.html> (“Long concentrated among minorities, motherhood outside marriage now varies by class about as much as it does by race. It is growing fastest in the lower reaches of the white middle class.”); Jeanne Sager, *Soldier’s Wife Gives Their Baby Away & He’s Desperate to Get Her Back*, THE STIR, (Dec. 4, 2012, 3:00 PM), [http://thestir.cafemom.com/baby/147589/soldiers\\_wife\\_gives\\_their\\_baby](http://thestir.cafemom.com/baby/147589/soldiers_wife_gives_their_baby) (describing a wife of an Army Sergeant who gives their newborn child up for adoption while he is stationed away without his knowledge or consent); Ben Waldron, *Woman Who Sent Adopted Son Back to Russia Alone Must Pay Child Support*, ABC NEWS (July 13, 2012, 7:02 PM), available at <http://abcnews.go.com/blogs/headlines/2012/07/woman-who-sent-adopted-son-back-to-russia-alone-must-pay-child-support/> (reporting a woman put her adopted seven-year old son on a plane to Russia alone after deciding she no longer wanted to be a parent to the child).

65. See Appelbaum, *supra* note 64 (reporting that, “women are choosing to raise children by themselves, in turn often producing sons who are less successful and attractive as partners”); *Core Learnings*, NAT’L CTR. ON FATHERS & FAMS., <http://www.ncoff.gse.upenn.edu/programs/core-learnings> (last visited Oct. 13, 2013) (claiming that

suggest that the cause may be more appropriately linked to a female-driven “hookup” culture.<sup>66</sup> Often heralded as a healthy expression of sexual freedom, the “hookup” era has seen a rise in teen births,<sup>67</sup> sexually transmitted infections,<sup>68</sup> single parenthood,<sup>69</sup> infidelity,<sup>70</sup> depression and

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although the research is scant, the presence of a father appears to be important to a child’s development); Jason DeParle, *Two Classes, Divided by ‘I Do,’* N.Y. TIMES (July 14, 2012), available at <http://www.nytimes.com/2012/07/15/us/two-classes-in-america-divided-by-i-do.html> (reporting that “[a]cross Middle America, single motherhood has moved from an anomaly to a norm with head-turning speed,” but children from single-parent households “are more likely than similar children with married parents to experience childhood poverty, act up in class, become teenage parents and drop out of school,” and that the “absence of a father in the house makes it harder for children to climb the economic ladder.”); *Obama’s Father’s Day Speech Urges Black Fathers to Be More Engaged in Raising Their Children*, THE HUFFINGTON POST, [http://www.huffingtonpost.com/2008/06/15/obamas-fathers-day-speech\\_n\\_107220.html](http://www.huffingtonpost.com/2008/06/15/obamas-fathers-day-speech_n_107220.html) [http://www.huffingtonpost.com/2008/06/15/obamas-fathers-day-speech\\_n\\_107220.html](http://www.huffingtonpost.com/2008/06/15/obamas-fathers-day-speech_n_107220.html) (last visited Oct. 13, 2013) (reporting on a speech in which President Obama ascribed blame to African-American fathers for underperforming or troubled children).

66. See Homans, *supra* note 27 (explaining, “If you thought today’s ‘hook-up’ culture was run by young testosterone-charged men who want sex and no commitment, think again. . . . [W]omen are often in charge and the primary beneficiaries.... These women have ‘hearts of steel,’ and the hook-up culture gives them sex without getting in the way of career-building.”); Kate Taylor, *Sex On Campus: She Can Play That Game, Too*, THE NEW YORK TIMES, ST1, (July 14, 2013) (observing that “hooking up” is viewed as a “functional strategy for today’s hard-charging and ambitious young women... to have enjoyable sex lives while focusing most of their energy on academic and professional goals”), available at <http://www.nytimes.com/2013/07/14/fashion/sex-on-campus-she-can-play-that-game-too.html?pagewanted=all>;

67. See Belinda Luscombe, *New Data: Teen Pregnancy, Abortion on the Rise*, TIME (Jan. 26, 2010), available at <http://www.time.com/time/health/article/0,8599,1956645,00.html> <http://www.time.com/time/health/article/0,8599,1956645,00.html> (reporting that while teen pregnancy had been dropping since 1990, it took an upturn in 2006); Ryan Smith, *Realistic Baby Helps Combat Teen Pregnancy*, THE MEADVILLE TRIB., Nov. 16, 2010, available at 2010 WLNR 22904095 (noting the high rates of teen pregnancies in Pennsylvania and reporting on an initiative to provide teenagers with a better understanding of caring for newborns).

68. See Mary D. Fan, *Decentralizing STD Surveillance: Toward Better Informed Sexual Consent*, 12 YALE J. HEALTH POL’Y, L. & ETHICS, 1, 23-24 (2012) (observing that “college-aged youths, the demographic most active in the ‘hook up’ culture have been dubbed the ‘epicenter of the HIV/AIDS epidemic’ and that “concurrent partnerships” and the “online meet market” has facilitated an increase in sexually transmitted infections); see also *HIV Among Black Women 5 Times Higher Than Previously Thought: Study*, HUFFINGTON POST (Mar. 10, 2012), [http://www.huffingtonpost.com/2012/03/10/hiv-rates-among-black-women-higher-than-previously-thought\\_n\\_1336928.html](http://www.huffingtonpost.com/2012/03/10/hiv-rates-among-black-women-higher-than-previously-thought_n_1336928.html) (citing the Center for Disease Control and Prevention estimate that 1 in 32 African-American women will be diagnosed with HIV in their lifetime); CTRS. FOR DISEASE CONTROL & PREVENTION, *Trends in Sexually Transmitted Diseases in the United States: 2009 National Data for Gonorrhea, Chlamydia and Syphilis* (2009), <http://www.cdc.gov/std/stats09/tables/trends-table.htm> (displaying a table with trends in 2009 of sexually transmitted diseases); *Course Teaches*

anxiety disorders among women,<sup>71</sup> dehumanization of male sex partners,<sup>72</sup> and a growing abortion rate in the United States that hovered at more than

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*Teenagers about the Dangers of Sex*, THE DESERT SUN, Apr. 3, 2012, available at 2012 WLNR 7075547; *Tibotec Therapeutics Launches GRACE Campaign for Women and People of Color Living with HIV/AIDS*, OBESITY, FITNESS & WELLNESS WEEK, Dec. 19, 2009, available at 2009 WLNR 24936652 (describing the campaign to increase awareness of HIV/AIDS affecting women and people of color); Sen. Frank R. Lautenberg, *Lautenberg, Lee Introduce Bill to Expand Comprehensive Sex Education*, FED. INFO. & NEWS DISPATCH, INC. (Nov. 2, 2011), available at 2011 WLNR 22654565; CTRS. FOR DISEASE CONTROL & PREVENTION, *CDC Study Finds U.S. Herpes Remains High* (Mar. 9, 2010), <http://www.cdc.gov/nchhstp/newsroom/hsv2pressrelease.html> (finding that nearly half of African-American women are infected with herpes).

69. See Bryce Covert, *The Rise and Downfall of the American Single Mother*, FORBES.COM (July 16, 2012), available at <http://www.forbes.com/sites/brycecovert/2012/07/16/the-rise-and-downfall-of-single-mothers/> (reporting that 41% of births occur outside of marriage).

70. See Kelly Campbell & David Wright, *Marriage Today: Exploring the Incongruence Between Americans' Beliefs and Practices*, 41 J. COMP. FAM. STUD. 329, 329–30 (2010), available at 2010 WLNR 15572964 (noting the high rates of infidelity and divorce in America); Barbara Marshall, *When a Star Husband Strays, Should She Stay?*, PALM BEACH POST, Jan. 14, 2010, available at 2010 WLNR 880005 (discussing golf star Tiger Woods' infidelity).

71. See Emma Innis, *Women Who Sleep Around At University Are More Likely to Become Depressed*, The Daily Mail, (Jan. 15, 2014) (discussing a study involving female undergraduates that found that “Hook-up behaviour during college was positively correlated with experiencing clinically significant depression”), available at <http://www.dailymail.co.uk/health/article-2540009/Women-sleep-university-likely-depressed.html>; Shaun Dreisbach, *Why Are Anxiety Disorders Among Women on the Rise?* (Oct. 15, 2010), [http://www.msnbc.msn.com/id/39335628/ns/health-mental\\_health/t/why-are-anxiety-disorders-among-women-rise](http://www.msnbc.msn.com/id/39335628/ns/health-mental_health/t/why-are-anxiety-disorders-among-women-rise) (attributing rise in female anxiety disorders to a cultural shift in which women value “money and status” more than “close relationships”); Stephanie Rosenbloom, *A Disconnect on Hooking Up*, The New York Times, G1, (Mar. 1, 2007) (discussing the claim that by hooking up, young women compromise their emotional health and may be “rendering themselves incapable of forging stable, loving relationships”), available at [http://www.nytimes.com/2007/03/01/fashion/01hook.html?pagewanted=all&action=click&module=Search&region=searchResults%230&version=&url=http%3A%2F%2Fquery.nytimes.com%2Fsearch%2Fsite%2Fsearch%2F%3Faction%3Dclick%26region%3DMain%26pgtype%3DHomepage%26module%3DSearchSubmit%26contentCollection%3DHomepage%26t%3Dqry49%23%2Fa%2520disconnect%2520on%2520hooking%2520up&r=0](http://www.nytimes.com/2007/03/01/fashion/01hook.html?pagewanted=all&action=click&module=Search&region=searchResults%230&version=&url=http%3A%2F%2Fquery.nytimes.com%2Fsearch%2Fsite%2Fsearch%2F%3Faction%3Dclick%26region%3DMain%26pgtype%3DHomepage%26module%3DSearchSubmit%26contentCollection%3DHomepage%26t%3Dqry49%23%2Fa%2520disconnect%2520on%2520hooking%2520up&r=0;)); Mark Regnerus & Jeremy Uecker, *Premarital Sex in America: How Young Americans Meet, Mate, and Think about Marrying*, 139 (New York: Oxford University Press, 2011) (“When we examine simple connections between recent and lifetime sexual partnering, frequency of sex, and a variety of emotional-health indicators—including depression scales, self-reported episodic crying, life satisfaction, depression diagnoses, and current use of prescription antidepressants—it quickly becomes apparent that having more numerous sexual partners is associated with poorer emotional states in women.”).

72. See Jen Doll, *The Summer of Objectification Has Apparently Begun*, THE ATLANTIC WIRE, June 25, 2012, available at <http://www.theatlanticwire.com/entertainment/2012/06/summer-objectification-has-apparently-begun/53897/> (providing several examples

1.2 million per year when the current administration first took office in 2009.<sup>73</sup>

Although the neglect and alienation of men have become an entrenched cultural phenomenon,<sup>74</sup> social theorists are becoming more astute. Knowing how near completely anti-male prejudice has been obscured by antiquated, politically opportunistic expressions of male dominance, many observers are beginning to reject the politics and fashion of *female-oppression--male-culprit* reasoning in acknowledgment of emerging, but underpublicized, male exonerating reports, which, for example, make clear that men do not harm children more often than women, pay court-ordered child support less than women, or instigate domestic violence more than women.<sup>75</sup> On the contrary, as some social

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of sexual objectification of men); Jones, *supra* note 8, at 1180 n.237 (2010) (referencing an incident in which a Duke University female student had casual sex with multiple male students and surreptitiously posted a graphic, detailed report of her assessment of their sexual prowess and physical attributes on the internet) .

73. See *Abortion Statistics: United States Data and Trends*, NAT'L RIGHT TO LIFE EDUC. TRUST FUND, <http://www.nrlc.org/uploads/factsheets/FS01AbortionintheUS.pdf> (last visited Oct. 19, 2013) (stating that U.S. abortion rate is roughly 1.2 million per year).

74. See Hanna Rosin, *Male Decline Is No Myth*, SLATE.COM (Oct. 2, 2012), [http://www.slate.com/articles/double\\_x/doublex/2012/10/male\\_decline\\_is\\_no\\_mythwhy\\_that\\_new\\_york\\_times\\_op\\_ed\\_has\\_it\\_wrong.html](http://www.slate.com/articles/double_x/doublex/2012/10/male_decline_is_no_mythwhy_that_new_york_times_op_ed_has_it_wrong.html).

75. See BASKERVILLE, *supra* note 38 (that “women perpetrate domestic violence, including severe violence, as much as men has been established by so many studies as to require no further treatment here.”); DAVID BENATAR, *THE SECOND SEXISM: DISCRIMINATION AGAINST MEN AND BOYS* 31 (2012) (recognizing that although the term *domestic violence* is routinely characterized as the violence husbands or boyfriends inflict on wives or girlfriends, many studies indicate that women instigate at least half of domestic violence and where a “knife or gun” is used, the rate of women assaulting husbands actually increases); KATHLEEN PARKER, *SAVE THE MALES: WHY MEN MATTER AND WHY WOMEN SHOULD CARE* 23 (2008); *Moms Can Be Deadbeats Too*, FOXNEWS.COM (Aug. 9, 2002), <http://www.foxnews.com/story/2002/08/09/moms-can-be-deadbeats-too/>. The gendered characterization of domestic violence is perpetuated by the media’s near-blackout on reporting incidents in which women engage in violent conduct against one another, men, and children, or link the violent conduct against men or women to mental illness. See Philip Caulfield, *Ex-WNBA Star Chamique Holdsclaw Arrested for Smashing Former Flame’s Car Windows, Firing Gun into SUV*, N.Y. DAILY NEWS (Nov. 16, 2012), <http://www.nydailynews.com/news/national/chamique-holdsclaw-arrested-article-1.1203127> (describing that incident reporters linked conduct where WNBA player poured gasoline on her ex-lover’s car and fired a gun at it and bashed the windows to depression, and was subsequently released on \$10,000 bail); *Shanterra Madden Sentenced to 29 Years In Prison*, NEWSCHANNEL5.COM (July 17, 2012), <http://www.newschannel5.com/story/19041301/shanterra-madden-to-be-sentenced-tuesday> (explaining how Tennessee circuit court Judge Don Ash sentenced Shanterra Madden for second-degree murder for stabbing her roommate, Middle Tennessee State basketball player, Tina Stewart); *WNBA Star Jantel Lavender Accused of Smashing Boyfriend Adam Ashley’s Crotch*, BLACKSPORTSONLINE.COM (Aug. 24, 2011),

theorists note, men have sacrificed greatly for the nation's security;<sup>76</sup> contributed significantly to America's families;<sup>77</sup> helped create labor-saving inventions such as social media,<sup>78</sup> computers, and wireless technologies;<sup>79</sup> and even made advancements in contraception that make it possible for women to pursue their aspirations inside or outside the home.<sup>80</sup>

Meanwhile, like their adult counterparts, America's boys have become victims of systemic neglect and mythologized or demonized notions of masculinity, especially African-American young men, who are eighteen times more likely than their Caucasian counterparts to become victims of

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<http://blacksportsonline.com/home/2011/08/wnba-star-jantel-lavender-accused-of-smashing-ex-boyfriends-crotch/> (explaining how Adam Ashley obtained a temporary restraining order against his former girlfriend, Los Angeles Sparks player Jantel Lavender, after she allegedly kicked him in the groin and smashed his head against the wall). Neither the Lavender nor the Madden incidents received national attention. Additionally, although the majority of child murders are committed by women, these incidents are never characterized or treated as domestic violence even though many incidents occur inside the home. *See Mom Sentenced to Life in Prison for Death of 4 year-old Daughter*, KHOU.COM (Sept. 17, 2012), <http://www.khou.com/home/Mom-sentenced-to-life-in-prison-for-death-of-4-year-old-daughter-170104376.html> (telling the story of a mother who murdered her daughter); Michael Winter, *Mother Gets 99 Years for Beating Child, Gluing Hands*, USA TODAY (Oct. 12, 2012), <http://www.usatoday.com/story/ondeadline/2012/10/12/dallas-mother-prison-glued-daughters-hands/1630409/> (reporting the story of a mother who abused her child); Nakia Cooper, *Women Sentenced to 80 Years for Day Care Fire that Killed 4 Children*, KMOV.COM (Nov. 20, 2012), <http://www.kmov.com/home/Woman-sentenced-to-80-years-for-day-care-fire-that-killed-4-children-180190231.html> (reporting the story of a woman who killed four children by setting fire to a daycare center).

76. *See Statistics on Women in the Military*, WOMEN IN MILITARY SERV. FOR AM. MEMORIAL FOUND., INC., <http://womensmemorial.org/PDFs/StatsonWIM.pdf> (last modified Nov. 30, 2011) (showing that women comprise 14.6 percent of our active duty military, thus implying that men, at 85.4 percent, comprise the vast majority of those in military service).

77. *See* Oriel Sullivan & Scott Coltrane, *Men's Changing Contributions to Housework & Childcare*, COUNCIL ON CONTEMP. FAMS. (Apr. 25–26, 2008), <http://www.contemporaryfamilies.org/marriage-partnership-divorce/menchange.html>.

78. *See* Michael Simon, *The Complete History of Social Networking—CBBS to Twitter*, MACLIFE.COM (Dec. 14, 2009, 4:05 PM), [http://www.maclife.com/article/feature/complete\\_history\\_social\\_networking\\_cbbs\\_twitter](http://www.maclife.com/article/feature/complete_history_social_networking_cbbs_twitter) (providing numerous examples of contributions men have made to social media).

79. *See, e.g., The Silicon Engine: A Timeline of Semiconductors in Computers*, COMPUTER HIST. MUSEUM, <http://www.computerhistory.org/semiconductor/people.html> (last visited Oct. 22, 2012) (providing a vast alphabetical listing of people, primarily men, who have contributed to the evolution of computers and wireless technologies).

80. *See* Alexandra Nikolchev, *A Brief History of the Birth Control Pill*, PBS.ORG (May 7, 2010), <http://www.pbs.org/wnet/need-to-know/health/a-brief-history-of-the-birth-control-pill/480/> (noting the achievements of endocrinologist Gregory Pincus on the development of the birth control pill). *See generally* PARKER, *supra* note 73, at 39–40 (discussing the role of the birth control pill in allowing women to break from “the confines of home”).

violence.<sup>81</sup> In fact, African-American males between the ages of twelve and twenty-four are victims of violent crimes at rates higher than females, Hispanics, and Caucasians.<sup>82</sup> Relative to education and employment, African-American males have fewer opportunities than their female counterparts and men and women in other ethnic communities.<sup>83</sup> Relative to opportunities to experience freedom, the same holds true: one in three African-American males live under the supervision of the criminal justice system.<sup>84</sup> An estimated one in three African-American men will go to prison during their lifetime, many due to selective or racially-biased prosecution for marijuana use or engaging in behavior that is often “romanticized” or excused when perpetrated by Caucasian men.<sup>85</sup> There are now more African-American males living under the control of the

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81. Herbert L. White, *Conference Tackles Violence Disparity*, THE CHARLOTTE POST (Mar. 22, 2012), [www.thecharlottepost.com/index.php?src=news&refno=4498&category=News](http://www.thecharlottepost.com/index.php?src=news&refno=4498&category=News) (quoting Dr. David Jacobs, “[t]he overwhelming number of patients who come in with gunshots are more than likely young African American males” and specifically discussing the disparities in Charlotte).

82. See JOSHUA DRESSLER, *CASES AND MATERIALS ON CRIMINAL LAW* 6 (5th ed. 2009) (stating that African-American males between 12 years old and 24 years old are more likely to be victims of violent crimes).

83. See TIGER, *supra* note 28, at 194–95 (positing that African-American males have fewer opportunities than African-American females).

84. See Perry L. Moriearty & William Carson, *Cognitive Warfare and Young Black Males in America*, 15 J. GENDER, RACE & JUST. 281, 282 (2012) (citing Marc Mauer & Tracy Huling, *The Sentencing Project, Young Black Americans and the Criminal Justice System: Five Years Later* (1995), available at [http://www.sentencingproject.org/doc/publications/rd\\_youngblack\\_5yrslater.pdf](http://www.sentencingproject.org/doc/publications/rd_youngblack_5yrslater.pdf)); see also Paul Butler, *The White Fourth Amendment*, 43 TEX. TECH L. REV. 245, 250–54 (2010) (offering a powerful discussion linking the mass incarceration of African-Americans to racial bigotry and prosecutorial discretion); Sharon Dolovich, *Teaching Prison Law*, 62 J. LEGAL EDUC. 218, 226 (2012) (offering potent remarks on the incarceration rates of African-American males).

85. Paul Butler, *What Obama Must Say to African American Grads*, Special to CNN (May 18, 2013), available at <http://www.cnn.com/2013/05/18/opinion/butler-obama-speech-morehouse/> (arguing that President Obama “can do much more than he has to disrupt the flow of the one in three young black men who are headed to prison”); Ian Urbina, *Blacks Are Singled Out for Marijuana Arrests, Federal Data Suggests*, N.Y. TIMES, June 3, 2013, available at <http://www.nytimes.com/2013/06/04/us/marijuana-arrests-four-times-as-likely-for-blacks.html> (“We found that in virtually every county in the country, police have wasted taxpayer money enforcing marijuana laws in a racially biased manner.”); William Glaberson, *Unlikely Symbol in Death Debate: The Last Don; U.S. is Weighing Charges Against Old Style Mafia Boss*, N.Y. TIMES, Feb. 13, 2004, available at <http://www.nytimes.com/2004/02/13/nyregion/unlikely-symbol-death-debate-last-don-us-weighing-charges-against-old-style.html?pagewanted=all&src=pm> (“We have demonized young Black men and young Hispanic men who engage in violent gang activity in a way that we have not demonized—and arguably have romanticized—white men who engage in the same conduct.”).

criminal justice system than were enslaved in 1850.<sup>86</sup> The ill effects of dehumanization and discrimination relative to African American males is so abundant that it would be nothing short of moral treason to deny that African-American males are disproportionately profiled, arrested, convicted, incarcerated, and sentenced more harshly than most, if not all other demographic groups.<sup>87</sup> As one commentator has already noted, “The rate of involvement with the criminal justice system and incarceration [among African-American males] rises to the level of emergency for black communities and seriously undermines any claim of justice and equality of our criminal justice system.”<sup>88</sup>

One of the most recent and vivid examples of this mode of social injustice is accentuated in the class action suit, *Floyd, et al. v. City of New York, et al.*, wherein a federal judge ruled that the New York City Police Department’s (“NYPD”) “stop-and-frisk” practices are unconstitutional.<sup>89</sup> Judge Shira Scheindlin found that the NYPD adopted and employed a “racial profiling” policy that targeted young African-American and Hispanic males, the “overwhelmingly” majority of whom, were found to be “innocent.”<sup>90</sup> Acting with “deliberate indifference to constitutional deprivations,” NYPD officials conducted over 4.4 million stops between January 2004 and June 2012, with only 1.5 percent of those stops resulting in a weapon being found and just six percent resulting in an arrest, which effectively nullified any claim that the young men were targeted because they found to be engaging in more crime or because that the policy made the streets safer.<sup>91</sup> In fact, the court noted that although the NYPD stopped African-American males based on a lesser degree of “objectively founded suspicion than whites,”<sup>92</sup> “whites are more likely to be found with weapons or contraband” when stopped, but represented merely ten percent of the citizens the NYPD stopped.<sup>93</sup> The court also noted that African- Americans

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86. See Michelle Alexander, *The New Jim Crow*, 9 OHIO ST. J. CRIM. L. 7, 9 (2011) (discussing the large number of incarcerated African-Americans).

87. Gary Ford, *The New Jim Crow: Male and Female, South and North, from Cradle to Grave, Perception and Reality: Racial Disparity and Bias in America’s Criminal Justice System*, 11 RUTGERS RACE & L. REV. 323, 365 (2010).

88. NANCY E. DOWD, *THE MAN QUESTION: MALE SUBORDINATION AND PRIVILEGE* 4 (2010).

89. See *Floyd, et al. v. City of New York, et al.*, Opinion and order, case 1:08-cv-1034-sas-hbp, doc. 373 (Aug. 12, 2013) (“floyd opinion”).

90. FLOYD OPINION, *supra* note 88 at 10, 12.

91. See *id.* at 6.

92. See *id.* at 7, 9.

93. See *id.* at 10, 13.

and Hispanics accounted for over eighty-three percent of those stopped and were “more likely to be subjected to the use of force than whites.”<sup>94</sup> The court concluded that the statistical and anecdotal evidence showed, unequivocally, that the NYPD violated the equal protection clause by stopping the young men because of a “race-based suspicion.”<sup>95</sup>

The NYPD’s ‘stop and frisk’ practice, although purportedly designed to curtail crime, at least debatably, bears witness to a conceptual need to condition, control, and surveil the movement of African American males, an approach notoriously epitomized in the post-Civil War *Black codes* that were enacted to regulate the movement of newly freed slaves and relegate them to subordination and poverty under the guise of protecting the public interest.<sup>96</sup>

Despite clear evidence that African-American males are not treated equally under the criminal justice system, crime statistics relative to African-American males are routinely sensationalized and used to reinforce the false stereotype that African-American males are typically gang members, drug kingpins, or more inclined to engage in violence and criminal conduct.<sup>97</sup> The current arrangement taints every interaction between African-American males and others, arguably resulting in what has been coined, a “black tax,” which burdens most African-American males, by rendering them vulnerable to undeserved exploitation, neglect, and fallacious notions of inferiority while bestowing corresponding social entitlement upon non-African-American males.<sup>98</sup> In short, no other group in the United States appears more disadvantaged at birth than African-American males.<sup>99</sup>

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94. *See id.* at 10, 13.

95. *See id.* 14-16.

96. DONNA L. DICKERSON, *THE RECONSTRUCTION ERA: PRIMARY DOCUMENTS ON EVENTS FROM 1865 TO 1877*, 43-45 (2003) (“In south Carolina, a former Confederate officer, summing up the need for Black codes, said black freedom must be ‘limited, controlled, and surrounded with such safeguards as will make change as slight as possible. . . . The general interest of both the white man and the negro requires that he should be kept as . . . near to the condition of slavery as possible, as far from the condition of the white man as practicable.”)

97. *See* KHALIL GIBRAN MUHAMMAD, *THE CONDEMNATION OF BLACKNESS: RACE, CRIME, AND THE MAKING OF MODERN URBAN AMERICA 1* (2010) (positing that in conversations about race, black crime statistics are ubiquitous).

98. JODY DAVID ARMOUR, *NEGROPHOBIA AND REASONABLE RACISM: THE HIDDEN COST OF BEING BLACK IN AMERICA*, 13 (1997) (The “Black Tax” is the price Black people pay in their encounters with Whites (and some Blacks) because of Black stereotypes”).

99. *See* Brief of Amici Curiae Coalition of Black Male Achievement Initiatives in Support of Respondents at 10, *Fisher v. Univ. of Tex. at Austin*, No. 11-345 (U.S. Aug. 13, 2012) (“From birth, young Black males face complex systemic barriers to opportunity. They

Nonetheless, when African-American males have a fair and balanced opportunity to compete, they perform superbly.<sup>100</sup> For example, in the U.S. military, where there is a “relatively level playing field, black males function as effectively as white and reveal no intrinsic difference from any other group in their skill and reliability.”<sup>101</sup> Outside the military, however, African-American males are the “first victim[s] of the toxic socioeconomic environment.”<sup>102</sup>

The mass derision and blame directed at young African-American males, which relegates many of them to a perpetual state of fear, alienation, and discrimination, is now beginning to ensnare America’s general population of young men.<sup>103</sup> For instance, the nation’s elementary school system is systematically failing boys. Despite the fact that boys “score as well as or better than girls on most standardized tests, . . . they are far less likely to get good grades, take advanced classes or attend college.”<sup>104</sup> A recent study revealed that schoolteachers routinely give boys lower grades than girls even when, unbeknownst to the teacher, the boys scored higher on reading, math, and science tests.<sup>105</sup> In short, the deficient grades that teachers are giving boys do not match those students’ high test scores.<sup>106</sup> This arrangement indicates that young boys are being academically

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are more likely to live in the most disadvantaged environments in the nation, more likely to begin life under the most difficult circumstances (i.e., grow up in poverty, suffer disproportionate early childhood health disparities, be raised in single parent homes with reduced resources), more likely to lack successful same-race/gender role models, and more likely to be the victims of violence than any other group in the nation.”); Suzanne Gamboa, *High School Graduation Rate for Black Males Trails White Students*, Huffington Post (Sept. 19, 2012), [http://www.huffingtonpost.com/2012/09/19/black-male-hs-graduation-\\_n\\_1896490.html](http://www.huffingtonpost.com/2012/09/19/black-male-hs-graduation-_n_1896490.html) (stating that the 47 percent high school dropout rate among African-American males is “not evidence of flaws of young men, but evidence of willful neglect by federal, state, local elected policymakers and leaders.”).

100. See Baruti K. Kafele, *Empowering Young Black Males*, ASS’N FOR SUPERVISION AND CURRICULUM DEV’T (Oct. 2012), <http://www.ascd.org/publications/educational-leadership/oct12/vol70/num02/Empowering-Young-Black-Males.aspx><http://www.ascd.org/publications/educational-leadership/oct12/vol70/num02/Empowering-Young-Black-Males.aspx> (discussing expansion of a program created by a high school principal in Essex County, NJ which aims to empower young black men).

101. TIGER, *supra* note 28, at 194.

102. TIGER, *supra* note 28, at 194.

103. See PARKER, *supra* note 75, at 18–20 (discussing the impact of hostility toward men on young men, generally).

104. Christina Hoff Sommers, Op-Ed, *The Boys at the Back*, N.Y. TIMES (Feb. 2, 2013, 2:00 PM), <http://opinionator.blogs.nytimes.com/2013/02/02/the-boys-at-the-back/>.

105. See *id.*

106. See *id.*

penalized simply for being boys. Additionally, in many regions, the number of adult teachers having sexual relations with their boy students has reached near-epidemic proportions.<sup>107</sup> More than half of confiscated child pornography depicts boys, not girls.<sup>108</sup> The level of sex trafficking and violence perpetrated against boys is becoming a surreptitious norm as approximately half of all victims of sex trafficking are boys;<sup>109</sup> a claim made all the more potent by the shameful discoveries involving the systematic rape of boys on The Pennsylvania State University campus.<sup>110</sup>

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107. See Tim Padgett, *Florida Epidemic: Teachers Sleeping with Students*, TIME (May 30, 2009), <http://www.time.com/time/nation/article/0,8599,1901762,00.html> (discussing the prevalence of cases involving Florida school teachers arrested for sexual misconduct with underage students). *But see* Elizabeth Landau, *Teacher-Student Sex 'Never the Kids Fault.'* CNN (Mar. 12, 2010, 9:16 AM), <http://www.cnn.com/2010/HEALTH/03/12/teacher.student.sex.scandal/index.html> (discussing incidents involving female teachers having sex with their male students).

108. See Jones, *supra* note 66, at 1149 (discussing the prevalence of boy sexual abuse).

109. *Male Victims of Sex Trafficking*, TOYSOLDIER.WORDPRESS.COM (Oct. 25, 2012), <http://toysoldier.wordpress.com/2012/10/25/male-victims-of-sex-trafficking/> (demonstrating the culture of silence related to male sexual abuse); Sharadha Kalyanam, *The Other Side of Sexual Abuse: More Boy Victims*, The Indian Express, (Oct 12, 2013), available at <http://www.newindianexpress.com/cities/bangalore/The-other-side-of-sexual-abuse-More-boys-victims/2013/10/12/article1832399.ece#UxX5yF6wc7A> (stating that child sex abuse is at least 10 percent more among boys than girls. The cases are just not reported, according to activists"); Asma Al-Mohattwari, *Most Child Rape Victims Are Boys*, National Yemen, available at <http://nationalyemen.com/2013/03/10/most-child-rape-victims-are-boys/> (Discussing a 2012 security report issued by the Ministry of the Interior that revealed that explained that of them majority of rape victims are “male children”); Jodie Gummow, *10 Counterintuitive Facts About Child Sex Trafficking*, AlterNet, (Nov. 2, 2013), available at <http://www.alternet.org/civil-liberties/10-surprising-and-counterintuitive-facts-about-child-sex-trafficking> (reporting that “Boys Make Up 50% of the Sex Trafficking Victims in the U.S.”); John Jay College of Criminal Justice Center For Court Innovation, *The Commercial Sexual Exploitation of Children in New York City*, Executive Summary, (Sept. 2008), available at [http://www.courtinnovation.org/sites/default/files/CSEC\\_NYC\\_Executive\\_Summary.pdf](http://www.courtinnovation.org/sites/default/files/CSEC_NYC_Executive_Summary.pdf) (finding that at least 45% of the sexually victimized children are male and that male victims exceed the number of female victims when “transgender” are counted as male child); ECPAT USA, *And Boys Too*, [http://ecpatusa.org/wp/wp-content/uploads/2013/08/AndBoysToo\\_FINAL\\_single-pages.pdf](http://ecpatusa.org/wp/wp-content/uploads/2013/08/AndBoysToo_FINAL_single-pages.pdf) (reporting that a “John Jay College” study “estimated that as high as 50% of the commercially sexually exploited children in the U.S. are boys”); Katie Harris, *An Underworld of Male Slaves Come to Light in the UK*, TIME, (Oct 17, 2013), <http://world.time.com/2013/10/17/an-underground-world-of-male-slaves-comes-to-light-in-the-u-k/> (stating, “While slavery—or human trafficking—is often thought of in terms of female victims of sexual exploitation, the statistics suggest that the gender distribution is relatively even.”); Jones, *supra* note 8 at 1146 (stating, “boys are both more likely than women and girls to become victims of human trafficking and far less likely to receive legal protection.”).

110. See Louis Freeh, *Report of the Special Investigative Counsel Regarding the Actions of The Pennsylvania State University Related to the Child Sexual Abuse Committed by Gerald A. Sandusky*, FREEH SPORKIN & SULLIVAN, LLP (July 12, 2012),

Lacking the benefit of the targeted legislation and policies that the current administration affords their female counterparts, boy victims of murder, assault, sexual or domestic violence, and similar crimes are habitually ignored because of a culture of silence that permeates American society with respect to crimes and discrimination against boys.<sup>111</sup> Indeed, law-abiding boys are often perceived as willing participants or perpetrators of crimes and social injustices under circumstances in which girls would be presumed innocent victims.<sup>112</sup> In fact, several states force boy victims of rape to pay child support for any offspring resulting from their own sexual victimization.<sup>113</sup> It comes as no surprise to many observers that of the

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[http://www.thefreehreportonpsu.com/REPORT\\_FINAL\\_071212.pdf](http://www.thefreehreportonpsu.com/REPORT_FINAL_071212.pdf) (discussing the findings of an independent report into the circumstances surrounding the actions of The Pennsylvania State University related to child abuse committed by a former employee).

111. See generally ECPAT USA, *And Boys Too*, *supra* note 101 (discussing discrepancies between the treatment of young male victims and young female victims and the unique obstacles that plague boy victims of sexual exploitation). In lieu of advancing legislation and mandatory governmental requirements to address institutional problems that have disproportionately and historically operated to oppress African American males, the Executive branch advanced a privately funded, voluntary initiative, described as, *My Brother's Keeper*, to evaluate the unique needs of ethnic minority males. See Zachary Goldfarb, *President Obama to Launch Major New Effort to Help Minority Young Men*, THE WASHINGTON POST, [http://www.washingtonpost.com/politics/president-obama-to-launch-major-new-effort-on-young-men-of-color/2014/02/11/cc0f0a98-92cd-11e3-b227-12a45d109e03\\_story.html](http://www.washingtonpost.com/politics/president-obama-to-launch-major-new-effort-on-young-men-of-color/2014/02/11/cc0f0a98-92cd-11e3-b227-12a45d109e03_story.html) (discussing *My Brother's Keeper*); see also, Terry Smith, *Abetting Inequality in Post Racial U.S.*, Philly.Com, available at [http://articles.philly.com/2012-02-02/news/31017099\\_1\\_black-children-president-obama-first-black-president](http://articles.philly.com/2012-02-02/news/31017099_1_black-children-president-obama-first-black-president), (Feb. 2, 2012) (“The concern on Obama’s part appears to be that middle-of-the-road white voters will not tolerate a black politician focusing on race”).

112. See generally Thomas Carroll, *Gender and Juvenile Justice: New Courts, Programs Address Needs of Girls*, NAT’L CTR. FOR YOUTH LAW, [http://www.youthlaw.org/publications/yln/2009/july\\_september\\_2009/gender\\_and\\_juvenile\\_justice\\_new\\_courts\\_programs\\_address\\_needs\\_of\\_girls/](http://www.youthlaw.org/publications/yln/2009/july_september_2009/gender_and_juvenile_justice_new_courts_programs_address_needs_of_girls/) (last visited Nov. 20, 2013) (explaining boys’ and girls’ differing reactions to trauma); see also Josh Fernandez, *Skateboard Bachelor Party*, SACRAMENTO NEWS REV. (Sept. 30, 2010), available at <http://www.newsreview.com/sacramento/skateboard-bachelor-party/content?oid=1810692> (describing a situation in which nearly an entire town started verbally abusing male skateboarders because of a false rape allegation made by a woman who claimed she was sexually assaulted by a group of young male skateboarders).

113. Ruth Jones, *Inequality from Gender-Neutral Laws: Why Must Male Victims of Statutory Rape Pay Child Support for Children Resulting from Their Victimization?*, 36 GA. L. REV. 411, 411, 413, 416 (2002); see also TIGER, *supra* note 28, at 23 (describing the 1996 case of Cnty. of San Luis Obispo v. Nathaniel J., 57 Cal. Rptr. 2d 843 (Cal Ct. App. 1996), wherein the state sued a boy for welfare payments the state tendered to a thirty-four-year-old woman who raped him when he was fifteen years old).

nearly “two thousand [annual] suicides among fifteen to nineteen-year-olds, 85 percent are boys.”<sup>114</sup>

These realities raise serious questions about the executive branch’s funding of numerous programs designed exclusively for women and girls while rejecting male-oriented or gender-neutral programs,<sup>115</sup> such as its denial of a grant to the United States Conference of Catholic Bishops to provide care to victims of human trafficking simply because the church does not offer abortion services.<sup>116</sup> Perhaps more questionable is the executive branch’s apparent tacit consent to the tradition of “bacha bazi” boy dancing in Afghanistan, which involves the widespread selling and rape of young boys—a human rights calamity that has garnered great concern from the United Nations.<sup>117</sup>

While the widespread alienation of and violence perpetrated against young men sufficiently justify including young men, particularly young men of color, in the textual and substantive components of today’s governmental initiatives to quell gender discrimination and social injustice, the executive branch remains silent on this issue. In the meantime, the

114. DOWD, *supra* note, at 41–42.

115. See, e.g., *Obama Administration Record for Women and Girls*, *supra* note 9 (listing the accomplishments of the Obama administration in supporting women and girls).

116. See Emily P. Walker, *HHS Under Fire for Denying Grant to Catholic Group*, ABC NEWS (Dec. 4, 2011), <http://abcnews.go.com/Health/Wellness/hhs-fire-denying-grant-catholic-group/story?id=15076483> (stating that although the Catholic Group earned the highest rank of the four grantees who applied, HHS did not award them a grant).

117. See Ernesto Londoño, *Afghanistan Sees Rise in ‘Dancing Boys Exploitation,’* WASH. POST (Apr. 4, 2012), [http://www.washingtonpost.com/world/asia\\_pacific/afghanists-dancing-boys-are-invisible-victims/2012/04/04/gIQAYreSwS\\_story.html](http://www.washingtonpost.com/world/asia_pacific/afghanists-dancing-boys-are-invisible-victims/2012/04/04/gIQAYreSwS_story.html) (noting that although the State Department discussed the issue in a recent human rights report, “foreign powers in Afghanistan have refrained from drawing attention to the issue”); see also John Nova Lomax, *WikiLeaks: Texas Company Helped Pimp Little Boys to Stoned Afghan Cops*, HOUS. PRESS (Dec. 7, 2010), [http://blogs.houstonpress.com/hairballs/2010/12/wikileaks\\_texas\\_company\\_helped.php](http://blogs.houstonpress.com/hairballs/2010/12/wikileaks_texas_company_helped.php) (asserting that according to a WikiLeaks report, an American company is involved in the *bacha bazi* controversy). *Washington Post* reporter Londoño states:

A growing number of Afghan children are being coerced into a life of sexual abuse. The practice of wealthy or prominent Afghans exploiting underage boys as sexual partners who are often dressed up as women to dance at gatherings is on the rise in post-Taliban Afghanistan, according to Afghan human rights researchers, Western officials and men who participate in the abuse. “Like it or not, there was better rule of law under the Taliban,” said Dee Brillenburg Wurth, a child-protection expert at the U.N. mission in Afghanistan, who has sought to persuade the government to address the problem.

Londoño, *supra*.

nation's disproportionately low percentage of young men on college campuses continues unabated, with very little alarm from the political hierarchy.<sup>118</sup> Long believed to be a problem unique to the African-American community,<sup>119</sup> the disproportionately low percentage of young men graduating from or attending college, and the consequential economically depressed culture that such a social phenomenon produces, is now a critical concern for many Americans, including marriage-minded women.<sup>120</sup>

Not only is education one of the most important functions of government, it is the principal instrument for awakening cultural values and preparing for professional life.<sup>121</sup> It is doubtful that any citizen can be expected to succeed in today's competitive and global economy without sound investments in advanced education. Yet, the nation's educational system continues to ignore or alienate boys, who suffer from:

lower grades, a higher rate of being held back a grade, a higher dropout rate, lower test scores, more frequent behavior problems, a disproportionate representation in the pool of students labeled learning disabled and emotionally disturbed, a higher rate of suspension, a higher rate of suicide, a greater likelihood of inflicting or being victimized by physical violence, and being less likely to attend college.<sup>122</sup>

Indeed, for every three women who will graduate with a bachelor's degree, two men will graduate, as male student enrollment continues an

118. David R. Francis, *Why Do Women Outnumber Men in College?*, THE NAT'L BUREAU OF ECON. RESEARCH, <http://www.nber.org/digest/jan07/w12139.html> (last visited Oct. 18, 2012).

119. See *Statistics on African-American Males: Facts and Sources, Current Plight of Black Men & Boys in America*, THE MOREHOUSE MALE INITIATIVE, [http://morehousemaleinitiative.com/?page\\_id=178](http://morehousemaleinitiative.com/?page_id=178) (last visited Nov. 20, 2013) (citing a study positing that "[j]ust 22% of Black males who began at a four-year college graduated within six years").

120. See Homans, *supra* note 27; Alex Williams, *The New Math on Campus*, N.Y. TIMES (Feb. 5, 2010), [www.nytimes.com/2010/02/07/fashion/07campus.html](http://www.nytimes.com/2010/02/07/fashion/07campus.html); John O'Rourke, *YouSpeak: When Women Outnumber Men*, BU TODAY (Feb. 14, 2011), [www.bu.edu/today/2011/youspeak-when-women-outnumber-men](http://www.bu.edu/today/2011/youspeak-when-women-outnumber-men); see also Bolick, *supra* note 37:

Given the crisis in gender it has suffered through for the past half century, the African American population might as well be a separate nation. An astonishing 70 percent of black women are unmarried, and they are more than twice as likely as white women to remain that way. Those black women who do marry are more likely than any other group of women to 'marry down.' . . . Across all income levels, black men have dropped far behind black women professionally and educationally; women with college degrees outnumber men 2-to-1.

121. *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954).

122. DOWD, *supra* note, at 76.

unabated downward spiral.<sup>123</sup> Some social theorists attribute the lack of gender-diverse enrollment and graduation rates on college campuses to a well-entrenched, systemic anti-male bias that permeates many public and private educational institutions.<sup>124</sup> Indeed, renowned incidents at McNeese State University,<sup>125</sup> Brown University,<sup>126</sup> UC Davis,<sup>127</sup> Penn State

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123. See Catherine New, *Income Gap Closing: Women on Pace to Outearn Men*, HUFFINGTON POST (Mar. 21, 2012, 12:31 PM), [http://www.huffingtonpost.com/2012/03/21/income-gap-women-make-more-men\\_n\\_1368328.html](http://www.huffingtonpost.com/2012/03/21/income-gap-women-make-more-men_n_1368328.html) (discussing a recent rise in women's salaries); *As Gender Roles Change, Are Men Out of Step?*, CBS NEWS (June 17, 2012, 9:51 AM), [http://www.cbsnews.com/8301-3445\\_162-57454755/as-gender-roles-change-are-men-out-of-step/](http://www.cbsnews.com/8301-3445_162-57454755/as-gender-roles-change-are-men-out-of-step/); Miles Groth, *Are Colleges Not Welcoming Young Men*, Psychology Today, (Aug. 21, 2013), available at <http://www.psychologytoday.com/blog/boys-men/201308/are-colleges-not-welcoming-young-men> (stating that the "rate of [college] attendance of males in overall proportion to females is now about 37% in the U.S.")

124. See Jedediah Bila, *Academia and Young Men: The Interview Some 'Feminists' Won't Want You to Read*, ASS'N OF MATURE AM. CITIZENS (Apr. 30, 2012), <http://amac.us/academia-and-young-men-the-interview-some-feminists-wont-want-you-to-read2> (interviewing Dr. Miles Groth, psychology professor at Wagner College and founding editor of an online journal focusing on issues facing men and boys nationwide); see generally PARKER, *supra* note 75, at 31; see SOMMERS *supra* note 5, at 50–51 (criticizing the feminist movement); VENKER, *supra* note 5, at 17–19 (discussing the climate created by feminism at institutions of higher education); Groth, *supra* note 115 (explaining that "the environment has changed on campuses and men feel less welcome on many—perhaps most—college campuses"); Kenneth B. Nunn, *Diversity As a Dead End*, 35 PEPP. L. REV. 705, 728 (2008) ("According to three sociologists who have studied the occurrence of racial incidents on college campuses, 'U.S. colleges and universities are frequently permeated with much subtle, covert, and blatant racism.'").

125. See Jones, *supra* note 66, at 1176 n.212 (describing the arrest of a young male McNeese State University student for sexual assault who was jailed for thirty days before his accuser admitted that she fabricated the entire allegation); see also Michael David Smith, *School District Sues Brian Banks' Accuser over False Rape Claim*, NBC SPORTS (Apr. 13, 2013, 7:40 AM), <http://profootballtalk.nbcsports.com/2013/04/13/school-board-sues-brian-banks-accuser-over-false-rape-claim/> (reporting on The Long Beach School District's suit to recover a \$750,000 settlement from Wanetta Gibson, a woman who falsely accused linebacker Brian Banks of rape, causing him to spend years in jail); Associated Press Reporter, *Liberal Student Activist Threatened Herself with Rape in Facebook Hoax to Frame Conservatives*, MAIL ONLINE (May 1, 2013), available at <http://www.dailymail.co.uk/news/article-2317995/UW-student-activist-Meg-Lanker-Simons-Facebook-rape-threat-hoax-frame-conservatives.html>, (reporting on a University of Wyoming student that anonymously posting sexually intimidating language targeted towards herself on her own Facebook page in order to be convince people that she was a victim); Andres Jauregui, *Morgan Triplett, UCSB Student, Hired Man to Beat Her, Then Filed Rape Report with Police: D.A.*, THE HUFFINGTON POST (Apr. 4, 2013, 1:43 PM), [http://www.huffingtonpost.com/2013/04/02/morgan-triplett-hired-man-filed-rape-report\\_n\\_2998803.html](http://www.huffingtonpost.com/2013/04/02/morgan-triplett-hired-man-filed-rape-report_n_2998803.html) (reporting on a female University of California Santa Barbara student charged with filing a false rape report after reportedly soliciting via craigslist.com two men to beat her in exchange for sex).

126. See Andrew Mytelka, *Settlement Reached in Brown U. Lawsuit over Student Said*

University,<sup>128</sup> Vermont Law School,<sup>129</sup> and other institutions across the nation,<sup>130</sup> confirm male vulnerability to a particularly virulent brand of exploitation and gender discrimination that operates to deny young men equal access to education and freedom.<sup>131</sup> The psychological and emotional

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*to Be Falsely Accused of Rape*, CHRONICLE OF HIGHER EDUC. (Dec. 21, 2011), <http://chronicle.com/blogs/ticker/brown-u-settles-lawsuit-with-ex-student-who-said-he-was-falsely-accused-of-rape/39337> (discussing an incident where a male student was falsely accused of rape and sued the University).

127. See Kristin Jones, *A Curious Anomaly at UC Davis*, CTR. FOR PUB. INTEGRITY (Mar. 12, 2011, 2:36 PM), <http://www.publicintegrity.org/2009/12/03/2752/curious-anomaly-uc-davis> (noting an investigation of UC Davis after an audit revealed that it submitted false reports of sexual assault and that it had received repeated federal grants from the Department of Justice's Office on Violence Against Women, which was intended, in part, to increase institutional reporting of sexual assaults).

128. See Kevin T. Mulhearn, *Penn State Seemed More Interested in Protecting School's Brand than Jerry Sandusky's Victims*, N.Y. DAILY NEWS (July 12, 2012, 11:55 PM), <http://www.nydailynews.com/sports/i-team/penn-state-interested-protecting-school-brand-jerry-sandusky-victims-article-1.1113524> (highlighting that Penn State University officials acted in a fashion that demonstrated they were more concerned with protecting the Penn State brand than saving boy victims of repeated sexual abuse).

129. See Christina Hoff Sommers, *In Making Campuses Safe for Women, a Travesty of Justice for Men*, AM. ENTER. INST. (June 5, 2011), [www.aei.org/article/society-and-culture/race-and-gender/in-making-campuses-safe-for-women-a-travesty-of-justice-for-men](http://www.aei.org/article/society-and-culture/race-and-gender/in-making-campuses-safe-for-women-a-travesty-of-justice-for-men) (reporting that after a male law student was charged with rape under highly questionable circumstances and subsequently cleared of the charges after maintaining his complete innocence, the Vermont Law School refused to release his transcripts and threatened to bring new charges after he filed a claim of intentional infliction of emotional distress against the Vermont Law School and the accuser).

130. See Harvey Silvergate, *Yes Means Yes—Except on Campus*, WALL ST. J., (July 15, 2011), available at <http://online.wsj.com/article/SB10001424052702303678704576440014119968294.html> (reporting that the University of North Dakota suspended Caleb Warner from school for three years and refused him a rehearing despite his claim that a sexual encounter between him and a female student was consensual and an official police investigation finding that revealed clear evidence that the female student lied about the reported rape and refused to respond to a warrant issued for her arrest for filing a false police report).

131. See Katie Roiphe, *The Morning After: Sex, Fear, And Feminism on Campus*, 96–98 (1993) (discussing the impact of gender discrimination on males); See, e.g., Tamar Lewin, *Black Students Face More Discipline, Data Suggests*, N.Y. TIMES (Mar. 6, 2012), <http://www.nytimes.com/2012/03/06/education/black-students-face-more-harsh-discipline-data-shows.html> (providing an example of how young men are denied equal educational opportunities); see also Alex Rued, *Guilty Until Proven Innocent: How Misinformation Is Influencing College Sexual Assault Policies*, THE COLLEGE CONSERVATIVE (Jan. 12, 2012), <http://thecollegeconservative.com/2012/01/08/guilty-until-proven-innocent-how-misinformation-is-influencing-colleges-sexual-assault-policies/> (stating that Ms. Rued points out that “inflammatory data exaggerating the plight of women [relative to alleged sexual assault on campuses] continues to dominate media reports . . . [and drive] draconian action” against male students and that data typically found in “rape pamphlets” and on “college websites” is

impact of these contemporary forms of gender discrimination has generated widespread distrust for some academic institutions, which many perceive as anti-male in nature. Hence, both male and female students are beginning to lose interest in some educational experiences.<sup>132</sup>

Their reaction is not without merit. The nation's schools have become "major institutional problem[s] for boys' self-esteem," primarily because "curriculum[s] [are] more closely linked to girls' developmental capabilities," to the detriment of boys.<sup>133</sup> It cannot reasonably be denied that like many recently advanced executive policies and initiatives, today's colleges are saturated with numerous courses and programs specifically labeled for young *women*, without any offering of corresponding courses and programs tailored for their young *men*.<sup>134</sup> Some may argue that the women-specific focus on college campuses represents an attempt to meet the needs of the female majority or, perhaps, to correct the effects of past discrimination.<sup>135</sup> Nevertheless, few would deny that there is something

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misleading or without any evidentiary basis. Rued cites a Purdue University study that found the rate of false rape claims to be "41 percent," a *National Institute of Justice* study that found the rate of false rape claims to hover at "25 percent," and notes that the authors of *Until Proven Innocent* place the rate of false rape claims between "9 and 50 percent."); see also Anna Rittgers, *Sometimes, Women Lie About Rape*, THE WASHINGTON TIMES (Sept. 7, 2011), available at <http://www.washingtontimes.com/news/2011/sep/7/sometimes-women-lie-about-rape/?page=all> (describing "campus judiciary proceedings" of sexual assault cases as "Kangaroo proceedings" and noting that "innocent men wrongly convicted [of sexual assault under the new standard] . . . could suffer expulsion, damage to their reputation, disqualification for jobs and even criminal prosecution," while women who make "false allegations are rarely punished."); see also National Coalition for Men, *False Accusations*, (Jan. 11, 2009), available at <http://ncfm.org/2009/01/issues/false-accusations/> (citing Charles P. McDowell, Ph.D., *False Allegations*, Forensic Science Digest, (publication of the U.S. Air Force Office of Special Investigations), Vol. 11, No. 4 p.64 (Dec. 1985), (finding "about one-fourth of rape accusers recanted just before taking a lie detector test or after failing one. Further research found 60% of the accusations were false. The most common reasons given for making false accusations were spite or revenge, feelings of guilt or shame, or to cover up an affair"))).

132. See Bill Costello, *Where the Education Gap Is Leading America*, MAKING MINDS MATTER (Oct. 17, 2009), <http://makingmindsmatter.com/2009/10/17/where-the-education-gender-gap-is-leading-america> ("It turns out that when the gender ratio on campus tips decidedly toward women, both men and women become less attracted to that campus. Men don't want to enroll in what is perceived as a women's college, and women want men around to date.").

133. Dowd, *supra* note, at 41.

134. See, e.g., *Women's and Gender Studies Home: Women's and Gender Studies Courses*, BOSTON COLLEGE, [http://www.bc.edu/content/bc/schools/cas/ws/spring\\_courses.html](http://www.bc.edu/content/bc/schools/cas/ws/spring_courses.html) (last visited Oct. 18, 2012) (showing an example of women's studies college curriculum).

135. See Interview by Scott Jaschik with Alice E. Ginsberg, *The Evolution of American*

intuitively incongruent about an institutional practice that purports to empower the innocent majority (young women) while simultaneously discriminating against the innocent minority (young men) in a way that recreates the calamitous past practices of discrimination that the institution purportedly wants to correct. The abundance of women-labeled programs on numerous college campuses across the nation<sup>136</sup> represents the first time in American history when a growing number of government-funded educational programs have been specifically earmarked for the empowered, numeric majority group (women) with the approval of the executive branch, while enrollment amongst the disempowered numeric minority group (men) dissipates at an alarming rate.<sup>137</sup>

The lack of male-oriented educational programs and courses is suggestive, if not illustrative, of an abiding refusal of college legislators and administrators to respect human dignity and enforce civil rights laws and Title IX in a gender-neutral manner.<sup>138</sup> Furthermore, it is debilitating to both male and female students. At a minimum, it suggests, quite erroneously, that: (1) human dignity is not intrinsic to all Americans, but is merely a product of political or institutional design; (2) male culture, prosperity, and values are inferior or subordinate to those of females; and (3) female students remain so socially or economically disadvantaged that they are in need of special attention or preferences, in a way that male students are not, if they are to compete.

Many find these realities particularly unacceptable given the steady drop in science, technology, engineering, and math concentrations among American students, which some view as a national security crisis.<sup>139</sup>

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*Women's Studies*, INSIDE HIGHER ED (Mar. 27, 2009), <http://www.insidehighered.com/news/2009/03/27/women><http://www.insidehighered.com/news/2009/03/27/women> (stating that "one of the primary goals of . . . women's studies is equality with men . . .").

136. See, e.g., *Undergrad Degree Programs*, PENN STATE UNIV. BULL., <http://bulletins.psu.edu/undergrad/courses/W/WMNST/> (last visited Oct. 18, 2012) (showing an abundance of women-labeled programs).

137. See Daniel Borzelleca, *The Male-Female Ratio in College*, FORBES (Feb. 16, 2012), <http://www.forbes.com/sites/ccap/2012/02/16/the-male-female-ratio-in-college/> (finding that "females outnumbered their male counterparts for the first time in the late 1970's, and they have steadily increased their numerical value ever since").

138. See William H. Glover, Jr., *Gender Participation Issues Related to Sports—Title IX of the Education Amendments of 1972*, LEXIS HUB (Mar. 25, 2011), available at <http://www.lexisnexis.com/legalnewsroom/lexis-hub/b/commentary/archive/2011/03/25/gender-participation-issues-related-to-sports-title-ix-of-the-education-amendments-of-1972.aspx> (showing that Title IX is not enforced equally between men and women).

139. See *Decline in Math and Science Education Imperils U.S.*, HOMELAND SECURITY

### III. Finding a Solution for the Neglect and Alienation of Males

#### A. Causation

When one considers the degree of social policy enactments and manner in which men and boys are excluded without apparent objection from the general public, one is left with a near-inescapable supposition that neglect and alienation of males are either desired or socially acceptable, although the basis for the neglect and alienation appears vague or imprecise. Indeed, a number of reasons might explain the phenomenon. One might reason that the exclusion of men and boys from executive branch policies and programs aimed at promoting social justice and quelling gender discrimination is simply an unintended consequence of a U.S. president whose self-proclaimed single-mother upbringing compels him to over-identify with matriarchal ideologies and reject patriarchal values.<sup>140</sup> One could also reason that today's circumstance is merely a result of a chief executive's masterful plan to satisfy one of its largest political base: single women.<sup>141</sup> Though reasonable, neither explanation adequately addresses why the general public might accept or remain indifferent to male neglect. This facet of the problem might explain why some social theorists view the cause as cultural rather than political in nature.<sup>142</sup>

For instance, Christina Hoff Sommers attributes the cause of male neglect and alienation to "a feminism of resentment that rationalizes and fosters a wholesale rancor," based on the belief that all women are

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NEWS WIRE (Apr. 30, 2008), [www.homelandsecuritynewswire.com/decline-math-and-science-education-imperils-us](http://www.homelandsecuritynewswire.com/decline-math-and-science-education-imperils-us) (stating that "the decline in the number of graduates in mathematics and engineering has become as steady as it is worrisome").

140. See Kevin Diaz, *Campaigns Fight for Women's Vote*, STARTRIBUNE (Sept. 25, 2012), <http://www.startribune.com/news/?id=171077551> (recognizing that Michelle Obama frequently reflects on her husband's single mother upbringing).

141. See JoNel Aleccia, *Women's Support Proves Key in Battlegrounds*, MSNBC (Nov. 5, 2008, 12:15 AM), <http://www.nbcnews.com/id/27524699/#.Unw3IEJy4wc> (discussing how President Obama won the presidential election by garnering the majority of the women vote, consisting mostly of single, childless women); see also *Gender Gap Evident in the 2008 Election: Women, Unlike Men, Show Clear Preference for Obama over McCain*, CTR. FOR AM. WOMEN AND POL. (Nov. 5, 2008), [http://www.cawp.rutgers.edu/press\\_room/news/documents/PressRelease\\_11-05-08\\_women\\_svote.pdf](http://www.cawp.rutgers.edu/press_room/news/documents/PressRelease_11-05-08_women_svote.pdf). (Although Barack Obama won the majority of women voters during the 2008 presidential election, which consisted of 68 percent of Latinas and 96 percent of African-Americans, only 46 percent of his votes came from Caucasian women).

142. See SOMMERS, *supra* note 5, at 41–42.

“victim[s]” and men are the “culprit[s].”<sup>143</sup> Kathleen Parker attributes the cause of male neglect to “a culture that too often embraces the notion that men are to blame for all of life’s ills” and that “[m]ales as a group . . . are bad by virtue of their DNA.”<sup>144</sup> Parker reasons that “[i]n the process of fashioning a more female-friendly world, we’ve created a culture that is hostile toward males [and] contemptuous of masculinity.”<sup>145</sup> David Benatar attributes the male neglect problem to a culturally accepted belief that males are less valuable to society than females.<sup>146</sup> To illustrate the merits of his position, Benatar points to the legal conscription of men into combat; how men were required to register for Selective Service while women were exempt; and the traditional response to natural or manmade catastrophe, wherein men are the first to be sacrificed or put at risk in favor of “women and children first,” which he argues is an indication that the preservation of adult female lives takes priority over the preservation of adult male lives.<sup>147</sup> Lionel Tiger makes a similar assertion, arguing that “[m]ale behavior itself is treated as intrinsically questionable if not outright pathological.”<sup>148</sup> In illustrating his point, Tiger points to the fact that men are frequently diagnosed with attention-deficit hyperactivity disorder (ADHD) and are decisively more likely to be diagnosed as needing “special education.”<sup>149</sup> Tiger also notes a societal trend toward viewing single-sex educational institutions for women as important for self-esteem and professional advancement, whereas single-sex education for men (for example, “military academies”) is perceived as “producing degraded behavior.”<sup>150</sup>

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143. *See id.*

144. PARKER, *supra* note 75, at vii.

145. *See* PARKER, *supra* note 75, at vii–viii (attributing much of the cause to the fact that “in film and music, men are variously portrayed as dolts, bullies, brutes, deadbeats, rapists, sexual predators, and wife beaters” and that women, as a group, are attracted to such depictions); *One Boyfriend, Hardly Used . . .*, THE AGE (Aug. 9, 2003), <http://www.theage.com.au/articles/2003/08/06/1060145716188.html> (stating, for instance, that the scriptwriter from one of the most successful television shows, *Sex and the City*, advises women viewers to pass on boyfriends after they have finished with them, and describing the discarded men as “man-me-downs”).

146. BENATAR, *supra* note 75, at 79.

147. BENATAR, *supra* note 75, at 79.

148. TIGER, *supra* note 28, at 180.

149. TIGER, *supra* note 28, at 181; *see also* DOWD, *supra* note, at 41 (“[B]oys’ activity level also makes them more likely to ‘look [like] ADHD’ . . . [and that] history is full of great men who were notable misfits in the school environment.” (internal citations omitted)).

150. TIGER, *supra* note 28, at 181; *see also* Subodh Varma, *No Benefits from Separate Schooling for Boys and Girls*, *The Times of India* (Feb. 3, 2014), <http://timesofindia.indiatimes.com/india/No-benefits-from-separate-schooling-for-boys-and-girls->

Robert Bly, in his influential work, *Iron John: A Book about Men*, attributes some of the cause of male neglect to male resentment of men.<sup>151</sup> Bly asserts that many men harbor a deep-rooted distrust of other men, which Bly links to a specific identity many men adopt after being forced to act as “soul companion[s]” to their mothers at a young age—an experience that compels men to over-identify with patriarchal identity and view themselves as “white knight[s] for womankind.”<sup>152</sup> In short, Bly points to a connection between an adult male’s self-identity as a “man” and his ability to protect women from what he perceives to be a threat—other men.<sup>153</sup> Susan Faludi, in her significant work, *Stiffed: The Betrayal of the American Man*, ascribes much of America’s growing alienation from and dehumanization of men to a feminist media, which, she reasons, routinely depicts men as culprits and masculinity as dysfunctional.<sup>154</sup> Few can reasonably deny that American media, which systematically highlights and sensationalizes the best traits in women and the worst traits in men, is a contributing cause of male dehumanization.<sup>155</sup> Despite the alarming number of men who die from violence, companies routinely use television commercials that mock violence against men to market their products.<sup>156</sup> More than 80 percent of media descriptions of males are negative.<sup>157</sup> The American media’s preoccupation with sensationalizing or overreporting male deviance, particularly that of African-Americans, while

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Study/articleshow/29809408.cms (discussing a recent study by the American Psychological Association that covered over “1.6 million students” and concluded that “separate schools for boys and girls gives no benefit compared to coed schools”).

151. ROBERT BLY, *IRON JOHN: A BOOK ABOUT MEN* 186–87 (2004).

152. *Id.*

153. *Id.*

154. SUSAN FALUDI, *STIFFED: THE BETRAYAL OF THE AMERICAN MAN* 6, 44 (1st perennial ed. 2000).

155. See Jones, *supra* note 66, at 1173 (stating that “the media’s negative perception of men in general provides a strong basis for concern”).

156. See *Be a Man: Macho Advertising Promotes Hyper-Masculine Behavior, Study Finds*, HUFFINGTON POST (May 8, 2013, 5:08 PM), [http://www.huffingtonpost.com/2013/05/07/be-a-man-macho-hypermasculine-advertising\\_n\\_3230402.html](http://www.huffingtonpost.com/2013/05/07/be-a-man-macho-hypermasculine-advertising_n_3230402.html) (showing that advertisements in male magazine promote violence as an essential characteristic of masculinity).

157. See Jones, *supra* note 8 (citing facts showing that only 20 percent of representations of men in the media are positive); see also PAUL NATHANSON & KATHERINE K. YOUNG, *SPREADING MISANDRY: THE TEACHING OF CONTEMPT FOR MEN IN POPULAR CULTURE* 143 (2001) (“Watching the brutality of male characters night after night on prime-time television has a therapeutic value for many women. It provides a psychologically satisfying explanation for the cause of suffering. More than that, it provides a culturally acceptable source for suffering and evil.”).

simultaneously underreporting female criminal conduct,<sup>158</sup> is an emblematic result of *female-oppression-male-culprit* reasoning, wherein males are cast as victimizers and women as victims, even under circumstances in which the male is clearly the victim.<sup>159</sup> Whether the reluctance to report or describe female deviant behavior stems equally from concern over being perceived as misogynistic, or fear of losing television viewership, the commercial media's constant portrayal of males as criminals, cheaters, or victimizers of women harms the collective good because it pressures the allocation of government resources<sup>160</sup> to protect only women and girls, thereby allowing a substantial degree of harm to men and boys to go unabated or undetected.<sup>161</sup> Consequently, public servants such as clergy staff, school teachers, social workers, law enforcement officers, politicians, and even judges, who otherwise would play a decisive role in combating gender discrimination, are left uninformed regarding the full spectrum of criminal behavior, discrimination, and false blame levied against men and boys.<sup>162</sup>

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158. See Jones, *supra* note 8, at 1173 (“[M]odern media portrays Latino males as poor, uneducated, lazy, and violent, and African-American males as criminals, delinquents, perfect entertainers and athletes, irresponsible, lazy, overbearing, or devoted sidekicks.” (citing Jamie Pehl, *Latinos in the U.S. Media* (May 12, 2004), available at [http://www.teachingliterature.org/teachingliterature/pdf/multi/latinos\\_media\\_pehl.pdf](http://www.teachingliterature.org/teachingliterature/pdf/multi/latinos_media_pehl.pdf)); Ardis C. Martin, *Television Media as a Potential Negative Factor in the Racial Identity Development of African American Youth*, 32 *Acad. Psychiatry* 338, 340 (July 1, 2008) available at <http://ap.psychiatryonline.org/article.aspx?articleID=51119>).

159. See Brenda Smith, *Uncomfortable Places, Close Spaces: Female Correctional Workers' Sexual Interactions with Men and Boys in Custody*, 59 *UCLA L. REV.* 1690, 1713–14 (2012) (pointing out that although female correctional officers commit the majority of sexual assaults upon males in correctional facilities, correctional authorities display a reluctance to cast them as victimizers).

160. See generally Tatum Wilcox, *Media Influence on Politics and Government*, *HELIUM* (Dec. 12, 2007), <http://www.helium.com/items/745081-media-influence-on-politics-and-government> (explaining how the media influences political campaigns, government officials, and state affairs).

161. See Adam Voiland, *The 'Silent Phenomenon' of Male Sexual Abuse*, *U.S. NEWS & WORLD REPORTS* (Sept. 8, 2008), <http://health.usnews.com/health-news/blogs/on-men/2008/09/08/the-silent-phenomenon-of-male-sexual-abuse> (positing that because American culture assumes that sexual abuse only happens to women, many men are sexually abused, but the abuse goes unreported).

162. See, e.g., Marci Hamilton, *Is Penn State the Catholic Church?*, *THE HUFFINGTON POST* (Nov. 8, 2011, 4:35 PM), [http://www.huffingtonpost.com/marci-hamilton/is-penn-state-the-catholi\\_b\\_1082595.html](http://www.huffingtonpost.com/marci-hamilton/is-penn-state-the-catholi_b_1082595.html) (discussing how young men were victimized in both educational and religious settings and further victimized by the institutional leaders' concealment of the scandal).

### B. Solution

Regardless of which theory of causation one subscribes to, if the nation is to achieve genuine gender equality and social justice for all citizens, it is incumbent upon all Americans, particularly those from historically oppressed groups, not to let contempt for the past acts of their oppressor turn them into oppressors.<sup>163</sup> Martin Luther King, Jr., once noted that deeply rooted in American culture is a conviction that every person has dignity and self-worth.<sup>164</sup> He observed that the duty to respect the dignity and worth of human personality is not only expressed in the Hebraic-Christian texts, but is also solidly enunciated in the nation's Declaration of Independence.<sup>165</sup> Social injustice stands in sharp contrast to the principle to respect human dignity. In highlighting the degree to which respect for human dignity should guide conduct, King cited the claims of Immanuel Kant, who argued that "all men must be treated as *ends* and never as mere *means*" to an end.<sup>166</sup> The duty to respect human dignity and to recognize a person's right to his or her own purpose is the basis of Immanuel Kant's means-end principle.<sup>167</sup> Kant stood firmly against treating people as merely means to an end as if they were objects with predetermined purposes rather than autonomous beings.<sup>168</sup> He argued that people should be free to pursue their own aspirations,<sup>169</sup> and (as this author has noted) that a person's worth should not be "influenced by feelings, impulses, heredity, social rank, or the advantages that one's individual talents one might procure."<sup>170</sup> Kant believed that a person could recognize another's worth only by maintaining

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163. See MARTIN LUTHER KING, JR., *The Most Durable Power*, in A TESTAMENT OF HOPE: THE ESSENTIAL WRITINGS AND SPEECHES OF MARTIN LUTHER KING, JR. 10, 10 (James Washington ed., 1986) ("Let no man pull you so low as to hate him.") [hereinafter MARTIN LUTHER KING, JR.]; see also Viktor Frankl, MAN'S SEARCH FOR MEANING, 112 (Washington Square Press, 1984) (reasoning that some people cannot "escape the influences of brutality" they have suffered and often feel they have a license to abuse others and feel their brutality or abuse of others is justified by "their own terrible experiences").

164. MARTIN LUTHER KING, JR., *supra* note 163, at 118–19.

165. MARTIN LUTHER KING, JR., *supra* note 163, at 118–19.

166. MARTIN LUTHER KING, JR., *supra* note 163, at 119.

167. IMMANUEL KANT, FOUNDATIONS OF THE METAPHYSICS OF MORALS AND WHAT IS ENLIGHTENMENT? 53–54 (Lewis White Black trans., 1990).

168. *Id.* at 52–53.

169. See IMMANUEL KANT, THE METAPHYSICS OF MORALS 50 (Mary Gregor trans., 1991) (stating that a person is subject only to laws he gives to himself).

170. Samuel V. Jones, *The Ethics of Letting Civilians Die in Afghanistan: The False Dichotomy Between Hobbesian and Kantian Rescue Paradigms*, 59 DEPAUL L. REV. 899, 931 (2010).

an overriding concern for the welfare of another person and accepting him or her as an equal member in the human race, rather than viewing a person through the prism of gender or social identity.<sup>171</sup>

The proclamations of Martin Luther King, Jr., and Immanuel Kant regarding human dignity have historically held strong appeal to the personal ethos of American society and provided a sound jurisprudential basis for curtailing social injustice against group discrimination.<sup>172</sup> To illustrate, consider the efforts of the Jewish Anti-Defamation League (ADL) to end race and religious-based textual exclusions decades ago:

[O]ne of the League's aims was to put a stop to the poisoning of the social environment by published declarations of racial and religious exclusion. When the ADL campaigned for legislation preventing stores and hotels from refusing to do business with Jews, it was not just the discrimination they wanted to counter, it was [also] the *signage*: "Christians only." What concerned the ADL was the danger that anti-Semitic signage would become an established feature of the landscape and that Jews would have to lead their lives in a community whose public aspect was permanently disfigured in this way.

Singly or together, these reputational attacks amount to assaults upon the *dignity* of the persons affected—*dignity*, in the sense of these persons' basic social standing, of the basis of their recognition as social equals, and of their status as bearers of human rights and constitutional entitlements.<sup>173</sup>

As noted earlier, a group's human dignity can be offended simply by "associating group membership with prohibition or exclusion" in a manner that operates to degrade the people who are excluded from a certain benefit or right, such as "No blacks allowed."<sup>174</sup> Just as it was and remains morally and legally appropriate to question public declarations of racial and religious exclusions in an effort to end affronts to human dignity, it is equally appropriate to question the public declarations of gender exclusions to end affronts to human dignity.

Few would deny that if the executive branch of the U.S. government or today's institutions of higher learning were to establish explicitly male-only

171. *Id.*

172. *See, e.g.*, Samuel Vincent Jones, Letter to the Editor, *A 'Teachable Moment' on Marginalized Male Victims*, N.Y. TIMES (Feb. 20, 2012), [http://www.nytimes.com/2012/02/21/opinion/a-teachable-moment-on-marginalized-male-victims.html?\\_r=0](http://www.nytimes.com/2012/02/21/opinion/a-teachable-moment-on-marginalized-male-victims.html?_r=0) (highlighting the social importance of respecting human dignity in American culture).

173. Jeremy Waldron, *Dignity and Defamation: The Visibility of Hate*, 123 HARV. L. REV. 1596, 1610 (2010) (emphasis added).

174. *Id.*

focused programs using publicly declared gender exclusions, (e.g., courses titled Men and the Law; or programs or offices titled, Council on Men and Boys, Men's Bureau, Office on Men's Health; or host a White House Forum on Men and the Economy) without offering similar programs for women, such initiatives would, at a minimum, rightly be considered an affront to the dignity of women. Yet, despite the dismal life conditions facing men today, many government policies, social justice initiatives, and institutions of higher learning employ programs that publicly exclude males, using nearly the same textual language that operated to exclude groups based on religious or racial grounds.<sup>175</sup> This arrangement highlights the dangers of distributing legal rights and entitlements between men and women based on perceived notions of fairness. Because notions of fairness are often susceptible to being influenced by antiquated notions of male dominance, bigotry or self-seeking political agendas, reliance on notions of fairness is questionable.<sup>176</sup>

Human dignity provides a safer tool for political government and educational institutions to attain and maintain social justice. Of course, human dignity "is a complex idea, with philosophical as well as political and legal resonances . . . [it] is not just a Kantian philosophical conception of the immeasurable worth of humans considered as moral agents," but rather a matter of "one's status as a member of society in good standing."<sup>177</sup> As such, the duty to respect human dignity "generates demands for recognition and treatment . . . that should be nourished and maintained by society and the law."<sup>178</sup>

There are a myriad of means by which policymakers can and should recognize and respect human dignity. First, policymakers should respect the freedom and welfare of all citizens by allocating benefits and burdens in a fashion that treats every citizen equally as ends and not as a mere means to an end.<sup>179</sup> This requires that policymakers extend to men and boys the same considerations and opportunities to succeed that they implicitly and

175. See Nancy Levit, *Feminism for Men: Legal Ideology and the Construction of Maleness*, 43 UCLA L. REV. 1037, 1042, 1105, 1115 (1996) (arguing that the role of masculinity in supporting feminism must be considered).

176. See *id.* at 1042–43 (explaining that the equal treatment theory viewed men as the "benchmark, the norm" for notions of fairness).

177. Waldron, *supra* note 173, at 1611–12.

178. Waldron, *supra* note 173, at 1612.

179. See C.E. HARRIS, JR., *APPLYING MORAL THEORIES* 172 (2d ed. 1992); THOMAS E. HILL, JR., *HUMAN WELFARE AND MORAL WORTH: KANTIAN PERSPECTIVES* 185–86 (2002) (explaining Kant's moral theory as a wholehearted commitment to goodwill).

expressly provide to women and girls.<sup>180</sup> In so doing, policymakers must respect the conditions necessary for men and boys to exercise their moral autonomy by refraining from interrupting male freedom and their ability to set their own goals and preserve their own welfare.<sup>181</sup> Put succinctly, governmental and institutional policies should: (1) endeavor to protect men and boys from murder, physical violence, and accidental deaths just as strongly as they aim to protect women and girls from such calamities; (2) promote and facilitate the right of men and boys to achieve economic prosperity, education, and financial security, just as much as they support the right of women and girls to do so; and (3) make provisions for the health, safety, and general welfare of men and boys, including veterans, the disabled, the sick, and the homeless, just as they provide such services for women and girls.<sup>182</sup> The claim is not that the human rights and private interests of women and girls should not remain governmental priorities—indeed, they should. Rather, the claim is that by addressing the needs and private interests of men and boys in concert with that of women and girls, policymakers improve the quality of life and respect the dignity of both groups.

#### IV. Conclusion

Despite noble and notable gains relative to women and girls, the festering sore of social injustice and gender inequality continues to be a dreadful burden for many of the nation's most devoted citizens.<sup>183</sup> Suicide, depression, homelessness, violent death, poor health care, incarceration, unemployment, underemployment, poor education, and weak job prospects are alarming problems for today's men and boys, and put the traditional American family in an imperiled state. If the nation is to be a country in which the dignity of every person is respected regardless of his or her gender or social status, American citizens must condemn policies that neglect and exploit men and boys just as vehemently as we applaud initiatives to end discrimination and oppression against women and girls.

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180. See Ernest J. Weinrib, *Law as a Kantian Idea of Reason*, 87 COLUM. L. REV. 472, 491 (1987) (positing that the presence of an external authority reinforces upon an actor the "external requirements of practical reason").

181. See, e.g., HARRIS, *supra* note 179, at 162 (explaining that for a person to be a moral agent, he needs to be able to control his behavior and set and achieve his own goals).

182. See HARRIS, *supra* note 179, at 173.

183. See *supra* discussion Part II.

Granted, notions about gender and social equality and how they should be measured, perceived, or attained are not monolithic. While many Americans (perhaps more single-oriented individuals) continue to voice concern over perceived female oppression and clamor for more gender-exclusive mandates,<sup>184</sup> others (namely, those who are more family-oriented) remain decidedly concerned about the dignity of men, women, boys, and girls, and long for more gender-inclusive policies.<sup>185</sup> While the two philosophical positions may not be truly antithetical in all respects, existing antinomies between them cannot be ignored. Regardless of which position one most philosophically aligns with, we all must adhere to and pursue policies that compel an abiding recognition of and respect for the dignity of all citizens if gender and social equality is ever to be attained. If the nation continues to succumb to a platform that ignores the needs of men and boys, and by extension, that of wives and mothers, rather than one that addresses the needs of all Americans, the moral authority, economic might, and national security of the United States will become compromised, perhaps irreparably.

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184. See, e.g., Alicia C. Carra, *Creating Law and Policy with Women's Voices: Feminism in Action*, 39 U. BALT. L.F. 181, 187 (2009) (discussing ways in which the law should be applied to empower all women).

185. See Cape Sociology, *Feminist Theories of the Family*, FEATURED CAPE SOC. RES., <http://www.capesociology.org/feminist-theories-family-54.html> (last visited Jan. 25, 2013).