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## THE END OF MEN, AGAIN

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After a national election cycle in which notoriously liberal Massachusetts elected its first female senator,<sup>1</sup> bringing the proportion of women in the U.S. Senate to a whopping twenty percent,<sup>2</sup> and during which politicians fought over whether female contraceptives were part of basic health care or an accessory to sluttishness,<sup>3</sup> it seems premature, if not downright odd, to be wringing our hands about the “end of men” and the “rise of women.”<sup>4</sup> Still, as Hanna Rosin reminds us, American colleges today practice affirmative action for males to maintain sex-balanced student bodies.<sup>5</sup> And despite their willingness to reach further down the artificial ladder created by GPAs and SAT scores to educate sufficient numbers of men, for the first time, secondary schools are granting more bachelor’s degrees to women than to men.<sup>6</sup> Moreover, women now occupy about half of all jobs.<sup>7</sup> Perhaps the male domination of U.S. politics in 2012 was another example of what Rosin calls a “last artifact[] of a vanishing age.”<sup>8</sup> Perhaps.

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<sup>1</sup> Katharine Q. Seelye, *Warren Defeats Brown in Massachusetts Senate Contest*, N.Y. TIMES, Nov. 7, 2012, at P11.

<sup>2</sup> Gail Collins, Op-Ed., *Twenty and Counting*, N.Y. TIMES, Dec. 8, 2012, at A21.

<sup>3</sup> Irin Carmon, *Why Is Birth Control a Big Deal Again?*, MARIE CLAIRE, May 2012, at 167.

<sup>4</sup> HANNA ROSIN, *THE END OF MEN: AND THE RISE OF WOMEN* (2012). Rosin has addressed the question of the limited number of women in elected office in Hanna Rosin, *Women Gain Wider Access to Power*, CNN OPINION, <http://www.cnn.com/2012/11/07/opinion/rosin-women-election/index.html> (last updated Nov. 8, 2012, 12:26 PM).

<sup>5</sup> ROSIN, *supra* note 4, at 158-59.

<sup>6</sup> *Id.* at 4, 149.

<sup>7</sup> *Id.* at 4. Ralph Richard Banks initiated a discussion of the education achievement gap between African American men and women as having arisen earlier. See BULawVideo, *Panel 3: Family (Evaluating Claims About “the End of Men” Conference)* at 24:50, YOUTUBE (Dec. 18, 2012), [http://www.youtube.com/watch?v=C18gcIZPeGw&feature=player\\_embedded#!](http://www.youtube.com/watch?v=C18gcIZPeGw&feature=player_embedded#!).

<sup>8</sup> ROSIN, *supra* note 4, at 14.

There is no doubt, however, that Rosin's argument, as set forth in *The Atlantic*<sup>9</sup> and her book, struck a chord. Rosin's end-of-men thesis inspired not only Boston University School of Law's October 2012 conference, but an outpouring of discussion in print, in the blogosphere, and on the airwaves.<sup>10</sup> Here we go again – and I say that less in exasperation than in wonder. Historians of American society, culture, politics, and law have documented recurring crises of masculinity throughout the nineteenth and twentieth centuries.<sup>11</sup> Taking the long view, our gender history appears not so much as the triumphal march of patriarchy, with white middle class men firmly on top, but as a long-running “Perils of Paul,” with chronic masculine insecurity surfacing in a new form every few decades.<sup>12</sup> Men, it seems, are always ending. Usually, the crisis is associated with women rising, although

<sup>9</sup> Hanna Rosin, *The End of Men*, ATLANTIC, July/Aug. 2010, at 56.

<sup>10</sup> For commentary, see, for example, Jennifer Homans, *A Woman's Place*, N.Y. TIMES, Sept. 16, 2012, at L1; Bryce Covert, *Dear Hanna Rosin: I'm Doing Fine! Love, the Patriarchy*, NATION (Oct. 2, 2012, 1:01 PM), <http://www.thenation.com/blog/170293/dear-hanna-rosin-im-doing-fine-love-patriarchy#>; “*End of Men*” *Heralds New Era of Female Dominance*, NPR (Sept. 10, 2012), <http://www.npr.org/2012/09/10/160131630/end-of-men-heralds-new-era-of-female-dominance>; and *Hanna Rosin: New Data on the Rise of Women*, TED TALKS (Dec. 2010), [http://www.ted.com/talks/hanna\\_rosin\\_new\\_data\\_on\\_the\\_rise\\_of\\_women.html](http://www.ted.com/talks/hanna_rosin_new_data_on_the_rise_of_women.html).

<sup>11</sup> Michael Kimmel has traced the perpetual crisis in MICHAEL KIMMEL, MANHOOD IN AMERICA: A CULTURAL HISTORY 5 (1st ed. 1996) and Michael S. Kimmel, *The Contemporary “Crisis” of Masculinity in Historical Perspective*, in THE MAKING OF MASCULINITIES: THE NEW MEN'S STUDIES 121, 143-53 (Harry Brod ed., 1987). Kimmel's work, and much subsequent exploration of masculinity in crisis, is discussed in Bryce Traister, *Academic Viagra: The Rise of American Masculinity Studies*, 52 AM. Q. 274, 287-93 (2000). See also JAMES GILBERT, MEN IN THE MIDDLE: SEARCHING FOR MASCULINITY IN THE 1950S, at 15-33 (2005). Earlier crises of masculinity are referenced and explored in conference presentations by Stephanie Coontz, Lynda Dodd, Martin Summers, and Serena Mayeri, as well as Ralph Richard Banks and Michael Kimmel. Boston University Law Review, *Evaluating Claims About “the End of Men”: Legal and Other Perspectives*, <http://www.bu.edu/bulawreview/symposium/evaluating-claims-about-the-end-of-men/> (last visited Mar. 6, 2013). These presentations also remind us that just as there is no universal “woman,” there has never been a universal “man,” so that crises of masculinity have always had a racial and class specificity. See, e.g., Serena Mayeri, *Historicizing “The End of Men”: The Politics of Reaction(s)*, 93 B.U. L. Rev. (forthcoming May 2013) (manuscript on file with author); BULawVideo, *Panel 1: 100 Years of the “End of Men”: Historical Perspectives* at 16:18, YOUTUBE (Dec. 17, 2012), [http://www.youtube.com/watch?v=DhQH zb3Km\\_Y&feature=player\\_embedded](http://www.youtube.com/watch?v=DhQH zb3Km_Y&feature=player_embedded) (considering the rise of Jim Crow at the end of nineteenth century as an example of an “episodic crisis of masculinity”).

<sup>12</sup> *The Perils of Pauline* was a serial movie with weekly installments beginning in 1914 in which Pauline endured a life-threatening scenario and was rescued each week. KALTON C. LAHUE, BOUND AND GAGGED: THE STORY OF THE SILENT SERIALS 273-75 (1968); BEN SINGER, MELODRAMA AND MODERNITY: EARLY SENSATIONAL CINEMA AND ITS CONTEXTS 198, 208-10 (2001); RAYMOND WILLIAM STEDMAN, THE SERIALS: SUSPENSE AND DRAMA BY INSTALLMENT 11-14 (1971).

sometimes the threat is primarily or secondarily perceived as coming from racial, ethnic, religious, and/or sexual “others.”<sup>13</sup> The success of Rosin’s book alerts us that the twenty-first century promises to be no different. Depending on one’s point of view, we remain stricken, gleeful, or obsessed with the perceived loss of male power.

Crises of masculinity are not the only type of periodic shared anxiety. Moral panics, for example, about white slavery and sex trafficking or sexual deviance and predation, are also chronic concerns of the American psyche.<sup>14</sup> When demographics shift with a surge of immigration, when a new population gets enfranchised, when a war begins or ends, we worry. “Moral panics,” that is, witch hunts inspired by a “false, exaggerated, or ill-defined moral threat” are one way of expressing worry, by scapegoating.<sup>15</sup> An “other” is identified and attacked, while some Americans wring their hands at the perceived decline of the white, middle-class man. Masculinity crises have their own hallmarks. There are calls for male self-improvement to bolster masculinity and for increased protection of privilege by keeping other genders, races, and classes out, what Michael Kimmel has called “reactive exclusion.”<sup>16</sup>

While it is a bit early to put the 2012 election campaign in historical perspective, it included familiar themes from earlier crises of masculinity, more evidence that Rosin has identified a broadly felt anxiety. Women were the target of reactive exclusion as candidates advocated limiting access to contraception and abortion, policies that would make reproductive control

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<sup>13</sup> GILBERT, *supra* note 11, at 16; Traister, *supra* note 11, at 283 (quoting from and commenting on Kimmel’s portrayal of the “masculine will-to-power premised on the exclusion of his necessary ‘others’”). Thus, crises of masculinity often are premised on a particular notion of threatened masculinity that excludes many biological males.

<sup>14</sup> For the early twentieth-century panic about sex trafficking and the legal response, see EDWARD H. LEVI, AN INTRODUCTION TO LEGAL REASONING 33-54 (1949). *See also* ROGER N. LANCASTER, SEX PANIC AND THE PUNITIVE STATE 24-25 (2011); Estelle B. Freedman, “Uncontrolled Desires”: *The Response to the Sexual Psychopath, 1920-1960*, 74 J. AM. HIST. 83 (1987).

<sup>15</sup> LANCASTER, *supra* note 14, at 23. Stanley Cohen brought the term “moral panic” to prominence in his study of British youth in the 1960s. STANLEY COHEN, FOLK DEVILS AND MORAL PANICS 1 (1st ed. 1972).

<sup>16</sup> KIMMEL, *supra* note 11, at viii. While this Essay does not attempt to develop these hallmarks, examples of bolstering and exclusion include the physical fitness craze of the early twentieth century, *see* MICHAEL S. KIMMEL, *Consuming Manhood: The Feminization of American Culture and the Recreation of the Male Body, 1832-1920*, in THE HISTORY OF MEN: ESSAYS ON THE HISTORY OF AMERICAN AND BRITISH MASCULINITIES 37, 37-59 (2005); BUlawVideo, *supra* note 11, at 23:06, and the rigorous passage and enforcement of “sexual psychopath” and anti-homosexual laws at mid-century, LANCASTER, *supra* note 14, at 32-38; Freedman, *supra* note 14, at 94; Gilbert Herdt, *Gay Marriage: The Panic and the Right*, in MORAL PANICS, SEX PANICS: FEAR AND THE FIGHT OVER SEXUAL RIGHTS 157, 164-65 (Gilbert Herdt ed., 2009).

difficult for women, particularly young and poor women.<sup>17</sup> Such policies protect male privilege. If it is more difficult for women to access jobs and education because they are encumbered with unintended children, then there are more of such perks of privilege available to men. As Justice Ruth Bader Ginsburg has explained, female reproductive autonomy is necessary for each woman “to stand in relation to man, society, and the state as an independent, self-sustaining, equal citizen.”<sup>18</sup>

As Rosin observes, marriage, family, and reproduction are key terrains not only for responding to crises of masculinity but also for identifying the existence of such a crisis. Feminists have argued for well over a century that the family is the cornerstone of masculine privilege and power, and Rosin focuses on the structure of the contemporary family to support her thesis. From the first pages of the introduction to her final chapter, she argues that the breadwinner role is no longer reserved for men, and, in fact, women might be surpassing men in that role, causing changes in marriage and family formation.<sup>19</sup> As Serena Mayeri reminds us in her examination of feminist responses to the critique of the African American family in the Moynihan Report, worry about the failure of men to serve as breadwinners and father figures is a recurring theme in crises of masculinity.<sup>20</sup> Even as the once-proud status of *pater familias* has eroded, however, one source of masculine power in the family has remained. In the families Rosin interviewed, as well as in the purportedly dysfunctional women-led families described by Senator Moynihan, men are still good for one thing – they beget the children whom they do not support or rear.

But what if the “end of men” meant just that – not just the end of patriarchy but also the end of the male role in sexual reproduction, maybe even the disappearance of all human males? In earlier crises of masculinity, such an end has been explicitly explored. One of my personal favorite manifestations of

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<sup>17</sup> Jennifer Steinhauer, *Senate Races Expose Extent of Republicans' Gender Gap*, N.Y. TIMES, Nov. 8, 2012, at A1.

<sup>18</sup> Ruth Bader Ginsburg, Essay, *Some Thoughts on Autonomy and Equality in Relation to Roe v. Wade*, 63 N.C. L. REV. 375, 383 (1985) (citing Kenneth L. Karst, *Foreword: Equal Citizenship Under the Fourteenth Amendment*, 91 HARV. L. REV. 1, 57-59 (1977)). The post-election analysis also focused on a demographic shift in the American electorate that diluted the voting power of white men, echoing the context of previous crises that coincided with waves of immigration or the constitutionally mandated expansion of the franchise to African Americans and women. See, e.g., David Lauter, *What Makes This Election Pivotal*, L.A. TIMES, Nov. 11, 2012, at A1; Robert P. Jones, Op-Ed., *How Values, Demographics and the Economy Helped Shape the Election*, WASH. POST (Nov. 7, 2012, 12:44 PM), [http://www.washingtonpost.com/blogs/figuring-faith/post/how-values-demographics-and-the-economy-helped-shape-the-election/2012/11/07/87df2908-2900-11e2-bab2-eda299503684\\_blog.html](http://www.washingtonpost.com/blogs/figuring-faith/post/how-values-demographics-and-the-economy-helped-shape-the-election/2012/11/07/87df2908-2900-11e2-bab2-eda299503684_blog.html).

<sup>19</sup> ROSIN, *supra* note 4, at 2-4, 236-38.

<sup>20</sup> Mayeri, *supra* note 11, at 2-4.

“end of men” anxiety is a popular novel published in 1946, *Mr. Adam*.<sup>21</sup> Pat Frank’s novel takes a humorous tone at a historical moment in which American men were struggling to find an economic and social footing in immediate post-war America. Masculinity as defined through military service needed to be retooled for the home front as demobilized servicemen sought to rejoin the domestic workforce. While unemployment had been low during the war, it was beginning to rise again.<sup>22</sup> The government actively sought to bolster the male breadwinner role by encouraging white women, who had worked in high-wage jobs newly available to them during the war, to become full-time housewives and mothers.<sup>23</sup> Meanwhile, Americans of all sexes, races, and classes struggled to understand the new threat of atomic weapons, against which all previous forms of masculine power seemed impotent.<sup>24</sup>

Frank imagines a world in which soon after World War II ends, a nuclear fission plant built to produce radioactive fuel for atomic bombs explodes, causing the complete destruction of the state of Mississippi. This loss does not seem to cause much concern along the Northeast corridor, particularly since the accident leads to the worldwide cancellation of all atomic weapon programs.<sup>25</sup> A few months thereafter, however, it slowly becomes apparent that the baby boom is grinding to a halt. Every man in the world, with the exception of one American who was at the bottom of a deep mine shaft at the moment of the Mississippi explosion, is sterile as a result of the radiation the accident released. The majority of the book playfully recounts how the U.S. government takes custody of this man, Mr. Adam, and attempts to persuade him that his duty is to provide all the sperm necessary to perpetuate the human race. The end of male fertility threatens the end of the human species, reminding readers of their crucial reliance on men as biological fathers at a time when other male roles seemed uncertain.

Of course, the end of men has not always been perceived as a species-ending threat – sometimes it has been a goal. During the early twentieth-century crisis of masculinity, associated with, among other things, female calls for suffrage and legal equality, Charlotte Perkins Gilman wrote *Herland*,

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<sup>21</sup> PAT FRANK, *MR. ADAM* (1946).

<sup>22</sup> SUSAN M. HARTMANN, *THE HOME FRONT AND BEYOND: AMERICAN WOMEN IN THE 1940s*, at 7 (1982) (reporting that unemployment rose from 1 million in 1945 to 2.3 million in 1946); Stanley Lebergott, *Annual Estimates of Unemployment in the United States, 1900-1954*, in NAT’L BUREAU OF ECON. RESEARCH, *THE MEASURE AND BEHAVIOR OF UNEMPLOYMENT* 213, 219 (1957).

<sup>23</sup> HARTMANN, *supra* note 22, at 23-24, 212-13.

<sup>24</sup> While there seemed to be no force to counter atomic weapons, the weapons themselves were sometimes portrayed as the ultimate in masculine power. For example, see the final scene of *DR. STRANGELOVE OR: HOW I LEARNED TO STOP WORRYING AND LOVE THE BOMB* (Columbia Pictures 1964).

<sup>25</sup> FRANK, *supra* note 21, at 23-24. A decade later, Frank published his most famous novel, a much darker look at the atomic age, PAT FRANK, *ALAS, BABYLON* (1959).

describing a utopian all-female society.<sup>26</sup> In Gilman's imagining, the biological end of men was even more abrupt, when all men in an isolated area died. Among the remaining women, the ability to reproduce by parthenogenesis spontaneously emerged and produced only daughters. Not only were women in *Herland* free to practice all trades, professions, and provider roles, but the all-female society was also free from war. While Gilman, like many other social critics, was using utopian fiction to examine flaws in contemporary society and advocate for change, in a later crisis of masculinity feminist thinkers took her imagined world without men a step further. During the last quarter of the twentieth century and a crisis of masculinity associated with the women's liberation movement and renewed calls for legal equality, feminist separatists not only advocated an all-female society, also known as the "lesbian nation,"<sup>27</sup> but took steps to implement it, establishing all-women collectives.<sup>28</sup> Lesbian separatists returned to turn-of-the-twentieth-century scientific literature on parthenogenesis and explored the viability of practicing a new all-female reproduction. While the discussion of parthenogenesis involved only a small fringe of the women's movement, the dream of what was sometimes called "virgin birth" gave new meaning to the "end of men."<sup>29</sup>

The current flurry of attention to the "end of men" is occurring as the heteronormative assumption of men's role as biological father, while perhaps not under attack, is at least being questioned. Reliance on men's reproductive capacity is becoming radically deemphasized in increasingly prominent settings. Much more so than when Gilman and Frank were writing their science-fiction visions of alternative reproduction, and even beyond the lesbian separatist movement of the 1970s, the ability to "hav[e] a baby without a man" is now firmly within the hands of almost any woman who chooses to grasp it.<sup>30</sup>

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<sup>26</sup> CHARLOTTE PERKINS GILMAN, *HERLAND* (1915).

<sup>27</sup> JILL JOHNSTON, *LESBIAN NATION: THE FEMINIST SOLUTION* (1973). In this book, Johnston gives her first-person account of the town hall meeting of feminists and Norman Mailer referenced by Rosin. See JOHNSTON, *supra*, at 15-58; ROSIN, *supra* note 4, at 66. Johnston's version strongly suggests that she would have objected to being called an "acolyte" of Germaine Greer, one of the other participants. ROSIN, *supra* note 4, at 66.

<sup>28</sup> See Sarah Lucia Hoagland & Julia Penelope, *FOR LESBIANS ONLY: A SEPARATIST ANTHOLOGY* (1988) (collecting separatist texts from the 1970s and 1980s). Separatist thought and practice is discussed extensively in DANA R. SHUGAR, *SEPARATISM AND WOMEN'S COMMUNITY* (1995).

<sup>29</sup> Greta Rensenbrink, *Parthenogenesis and Lesbian Separatism: Regenerating Women's Community Through Virgin Birth in the United States in the 1970s and 1980s*, 19 J. HIST. SEXUALITY 288 (2010).

<sup>30</sup> SUSAN ROBINSON & H.F. PIZER, *HAVING A BABY WITHOUT A MAN: THE WOMAN'S GUIDE TO ALTERNATIVE INSEMINATION* (1985). I say *almost* any, because there are cost barriers to accessing assisted reproduction, although the low-tech, low-cost "turkey baster" approach remains an option. Daniel Wikler & Norma J. Wikler, *Turkey-Baster Babies: The Demedicalization of Artificial Insemination*, 69 MILBANK Q. 5, 8 (1991). Non-cost barriers also remain, although they are greatly diminished. Richard F. Storrow, *Marital Status and*

In the twenty-first century, anyone can easily shop for and buy sperm on the Internet.<sup>31</sup> Any woman, regardless of the existence or sex of her partner, can self-inseminate or, if she has the financial resources, find a doctor willing to assist her in conceiving a child with her sperm of choice. Far from being a bedrock aspect of individual masculinity, male fertility is a commodity, sold in frozen ampoules.<sup>32</sup> Frozen semen can remain viable long after the supplying body has perished. Not only is a masculine presence diminished to a fleeting moment in the past, but the demands of assisted reproductive technology (ART) also disqualify most men from participation in this brave new world of conception. All of those out-of-work men Rosin describes, left behind by an economy that has ceased to value brawn,<sup>33</sup> may be both unwanted for in-person begetting, and unmarketable for remote insemination. The sperm of about two-thirds of men do not survive the freezing and thawing process well enough to be sold for artificial insemination.<sup>34</sup> Further, the sperm bank is creating a market in masculinity that prioritizes the tall and the well-educated and leaves other men languishing on the reproductive shelf.<sup>35</sup> Just as one Mr. Adam could save humankind, only a few supermen are needed to do the begetting for all women seeking “Mr. Good Sperm.”<sup>36</sup> The “end of men” in a biological sense, although not approaching the parthenogenic future described by Gilman, has moved in large part from the realm of science fiction into the bureaucracy of health insurance reimbursements.<sup>37</sup>

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*Sexual Orientation Discrimination in Infertility Care*, 3 L.J. FOR SOC. JUST. 99, 100 (2012).

<sup>31</sup> If you would like to try, visit *Choosing a Donor*, NEW ENG. CRYOGENIC CENTER, <http://www.necryogenic.com/choosing-a-donor.php> (last visited Mar. 7, 2013); *Donor Search*, CAL. CRYOBANK, <http://www.cryobank.com/Search.aspx> (last visited Mar. 7, 2013); *Donor Search*, FAIRFAX CRYOBANK, <http://donorsearch.fairfaxcryobank.com/> (last visited Mar. 7, 2013); MIDWEST SPERM BANK, <http://midwestspermbank.com/st/> (last visited Mar. 7, 2013).

<sup>32</sup> See RENE ALMELING, *SEX CELLS: THE MEDICAL MARKET FOR EGGS AND SPERM* 4-5 (2011); CYNTHIA R. DANIELS, *EXPOSING MEN: THE SCIENCE AND POLITICS OF MALE REPRODUCTION* 84-85 (2006). Acknowledging the commodification of semen is not to deny that it is sexed, raced, classed, and otherwise identified in a sociocultural matrix. LISA JEAN MOORE, *SPERM COUNTS: OVERCOME BY MAN'S MOST PRECIOUS FLUID* 107-10 (2007); Lisa Jean Moore & Matthew Allen Schmidt, *On the Construction of Male Differences: Marketing Variations in Technosemen*, 1 *MEN & MASCULINITIES* 331 (1999).

<sup>33</sup> ROSIN, *supra* note 4, at 5.

<sup>34</sup> Stuart Bergman, Stuart Howards & Warren Sanger, *Practical Aspects of Banking Patient's Semen for Future Artificial Insemination*, 13 *UROLOGY* 408, 409 (1979); see also ALMELING, *supra* note 32, at 59.

<sup>35</sup> ALMELING, *supra* note 32, at 54-55; DANIELS, *supra* note 32, at 97.

<sup>36</sup> See the cover of the New York Times Magazine reproduced in MOORE, *supra* note 32, at 94 (citing *Looking for Mr. Good Sperm*, N.Y. TIMES, Mar. 19, 2006 (Magazine)).

<sup>37</sup> Esther B. Fein, *Calling Infertility a Disease, Couples Battle with Insurers*, N.Y. TIMES, Feb. 22, 1998, at 2; *State Laws Related to Insurance Coverage*, NAT'L CONF. ST. LEGISLATURES, <http://www.ncsl.org/issues-research/health/insurance-coverage-for-infertility-laws.aspx> (last updated Mar. 2012).

The ease of artificial insemination has enabled at least an aspect of the all-female world that Gilman and later lesbian separatists imagined – single women and same-sex couples, the primary consumers of banked sperm, are able to mother children without any intervention by a father.<sup>38</sup> While lesbian mothers in the 1970s tended to be women who had children from previous heterosexual attachments, in the new century, most lesbian families are intentionally male-free.<sup>39</sup> There is no need to resort to fiction to express a social transition that could be perceived as threatening the “end of men.” And while these alternative families do not appear in Rosin’s book, they did appear in the 2012 election cycle, in both the Democratic and Republican party platforms,<sup>40</sup> and in the three states that voted on November 8, 2012 to recognize same-sex marriage.<sup>41</sup> Just as lesbian theorists of the 1970s predicted, lesbians have been the vanguard of a re-examination of marriage and the family, triggering a crisis of the traditional patriarchal family that has led to attempts to legally bolster it.<sup>42</sup> If we can associate the masculinity crisis in the

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<sup>38</sup> Female separatism is not solely an artifact of the past. See Kath Browne, *Womyn’s Separatist Spaces: Rethinking Spaces of Difference and Exclusion*, 34 *TRANSACTIONS INST. BRIT. GEOGRAPHERS* 541, 542 (2009).

<sup>39</sup> For a discussion about early lesbian mothers, see DEBORAH GOLEMAN WOLF, *THE LESBIAN COMMUNITY* 136-39 (1979). A transition in single-mother families from unintentional to intentional has also occurred but not as dramatically. See MOORE, *supra* note 32, at 105-06; Jane D. Bock, *Doing the Right Thing?: Single Mothers by Choice and the Struggle for Legitimacy*, 14 *GENDER & SOC’Y* 62, 63 (2000); Jennifer Egan, *Wanted: A Few Good Sperm*, *N.Y. TIMES*, Mar. 19, 2006 (Magazine), at E44.

<sup>40</sup> MOVING AMERICA FORWARD: 2012 DEMOCRATIC NATIONAL PLATFORM 17, 18, 32 (2012), available at [www.democrats.org/democratic-national-platform](http://www.democrats.org/democratic-national-platform) (promoting civil rights for homosexuals and supporting the right of same-sex couples to marry); WE BELIEVE IN AMERICA: REPUBLICAN PLATFORM 2012 10 (2012), available at [http://www.gop.com/2012-republican-platform\\_home/](http://www.gop.com/2012-republican-platform_home/) (“We applaud the citizens of the majority of States which have enshrined in their constitutions the traditional concept of marriage, and we support the campaigns underway in several other States to do so.”).

<sup>41</sup> Alana Semuels, *Sea Change for Gay Marriage*, *DENVER POST*, Nov. 8, 2012, at 16A (reporting that in Maine, Maryland, and Washington, voters passed gay marriage legislation, and in Minnesota an anti-same sex marriage bill was defeated). I do not intend to imply that these families were new in 2012. Rather, they have been around long enough to become the subject of popular movies, see *THE KIDS ARE ALL RIGHT* (Focus Features 2010), and for social science studies to compare children raised in alternative families to children raised in two-parent heterosexual households, see, e.g., Nanette Gartrell et al., *Adolescents with Lesbian Mothers Describe Their Own Lives*, 59 *J. HOMOSEXUALITY* 1211 (2012); Loes van Gelderen et al., *Quality of Life of Adolescents Raised from Birth by Lesbian Mothers: The US National Longitudinal Family Study*, 33 *J. DEVELOPMENTAL & BEHAVIORAL PEDIATRICS* 17 (2012).

<sup>42</sup> See, e.g., Defense of Marriage Act, Pub. L. No. 104-199, 110 Stat. 2419 (1996) (codified at 1 U.S.C. § 7 (2006) and 28 U.S.C. § 1738C (2006)) (limiting the federal definition of marriage to one man and one woman); *State Laws Limiting Marriage to Opposite-Sex Couples*, NATIONAL CONF. ST. LEGISLATURES (May 15, 2012), <http://www.ncs>



first quarter of the twentieth century with the women's suffrage movement and the crisis in the fourth quarter with the women's liberation movement, then it may not be long until a historical assessment will associate the current crisis with alternative reproduction and alternative family structures.

One could take this biological "end of men" as a way of separating today's crisis of masculinity from preceding crises. Rosin claims that she has identified "the end of two hundred thousand years of human history and the beginning or a new era,"<sup>43</sup> what her publisher would have us recognize as a "new world order,"<sup>44</sup> or a "new paradigm."<sup>45</sup> Yet it would be a mistake to decide that the crisis of masculinity in the early decades of the twenty-first century is somehow new and permanent because, unlike previous crises, it is rooted in science, medicine, and biology.

Reliance on ARTs is not new. While certainly more popular and more discussed today than at any previous period, the use of alternative conception has been trending upward since before Mr. Adam was enlisted to save the human race as a sperm donor.<sup>46</sup> The technology that enables today's sperm banks was developed in the 1950s.<sup>47</sup> What has changed in the intervening half century is the legal, social, and political context for using frozen semen, not human biology. In the 1940s, as Frank's plot suggested, donor sperm was used to allow married heterosexual women to bear their own "semi-adopted" children, who would be passed off as the biological offspring of their infertile husbands.<sup>48</sup> Since then, the science and medicine of reproduction without heterosexual contact has changed much less than the demographics of its consumers. Unquestionably, there have been advances in scientific knowledge, allowing the further manipulation of human reproduction. In vitro fertilization (IVF) joined artificial insemination as a fertility treatment in the 1980s, facilitating the use of donor eggs as well as donor sperm.<sup>49</sup> Further, while

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[l.org/issues-research/human-services/state-doma-laws.aspx](http://www.law.bu.edu/issues-research/human-services/state-doma-laws.aspx) ("Thirty-eight states have defined marriage as between a man and a woman in state law.").

<sup>43</sup> ROSIN, *supra* note 4, at 4.

<sup>44</sup> This is from an unattributed quote found on the cover of *The End of Men: And the Rise of Women*.

<sup>45</sup> This is a quote of Peggy Orenstein in praise of *The End of Men* that appears on the flap of *The End of Men: And the Rise of Women*. See also *The End of Men*, HANNA ROSIN, <http://hannarosin.com/the-end-of-men/> (last visited Mar. 7, 2013).

<sup>46</sup> MARGARET MARSH & WANDA RONNER, *THE EMPTY CRADLE: INFERTILITY IN AMERICA FROM COLONIAL TIMES TO THE PRESENT* 143-52, 181-242 (1996); ELAINE TYLER MAY, *BARREN IN THE PROMISED LAND: CHILDLESS AMERICANS AND THE PURSUIT OF HAPPINESS* 151-79 (1995); Kara W. Swanson, *Adultery by Doctor: Artificial Insemination, 1890-1945*, 87 *CHI.-KENT L. REV.* 591 (2012).

<sup>47</sup> Kara W. Swanson, *The Birth of the Sperm Bank*, 71 *ANNALS IOWA* 241, 241 (2012).

<sup>48</sup> Swanson, *supra* note 46, at 608.

<sup>49</sup> Louise Brown, the first baby conceived through IVF, was born in Great Britain in 1978. The first clinic in the United States to perform IVF opened in 1980, with the first IVF baby in the United States born in 1981. The use of donor eggs became an option in 1987.

freezing and thawing sperm is old technology, very recent advances in the cryopreservation of eggs may be leveling the playing field between men and women, at least with respect to whose fertility is replaceable by commodified gametes.<sup>50</sup> Would-be parents already shop for egg donors and surrogates, just as they do for “technosemen.”<sup>51</sup> Gay male couples use ARTs to build their families without heterosexual contact just as lesbian couples do.<sup>52</sup> True, the inherent scarcity and complexity of ova when compared to sperm is not (yet) changing, and Aldous Huxley’s vision of in vitro gestation is still a futuristic dream<sup>53</sup> – for the foreseeable future, humankind could survive with one Mr. Adam a lot more easily than with one Ms. Eve.

More significantly, history teaches us that crises of masculinity have served as repeated rallying cries. Instead of harbingers of the end, they have been calls to arms to preserve power and privilege. Like Mark Twain’s death, reports of the “end of men” have always been greatly exaggerated. Each crisis has dissipated without an end to male privilege, the same privilege once again on display in the 2012 election cycle.<sup>54</sup> Further, the rise of women, although demonstrable in many contexts – social, legal, and economic – has tended to veer off in directions unanticipated by those hoping that a crisis of masculinity would result in the end of patriarchy. The nineteenth-century feminists fervently hoped that enfranchising women would bring a new feminine style of governance, in which women would care for and clean up the polity in the same manner as they cared for and cleaned up their families and homes, bringing world peace, clean cities, and a reduction of poverty. These hopes were quickly dashed after the Nineteenth Amendment passed.<sup>55</sup> Women indeed have risen; we have Hillary Clinton and Sarah Palin, if not world peace. Meanwhile, crises of masculinity have continued to emerge. The current twenty-first-century crisis, whether or not rooted in the new reproductive biology, is a reminder that the rise of women remains incomplete, rather than

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MARSH & RONNER, *supra* note 46, at 236-41, 248.

<sup>50</sup> Michael J. Tucker et al., *Human Oocyte Cryopreservation and Its Expanding Utilization in Assisted Reproductive Technology*, 7 U.S. OBSTETRICS & GYNECOLOGY 40 (2012).

<sup>51</sup> ALMELING, *supra* note 32, at 40-43; MOORE, *supra* note 32, at 107; DEBORAH L. SPAR, *THE BABY BUSINESS: HOW MONEY, SCIENCE, AND POLITICS DRIVE THE COMMERCE OF CONCEPTION* 75-78 (2006); Moore & Schmidt, *supra* note 25, at 340.

<sup>52</sup> Ginia Bellafante, *Surrogate Mother’s New Niche: Bearing Babies for Gay Couples*, N.Y. TIMES, May 27, 2005, at A1 (“[C]lose to half of the 60 or so agencies and law firms around the country that broker arrangements between surrogate mothers and prospective parents work with gay couples or are seeking to, through advertising.”).

<sup>53</sup> ALDOUS HUXLEY, *BRAVE NEW WORLD* 3-18 (HarperCollins 1946) (1932).

<sup>54</sup> Admittedly, this display was in a changed context that included an African American president and female TV commentators.

<sup>55</sup> Sara Alpern & Dale Baum, *Female Ballots: The Impact of the Nineteenth Amendment*, 16 J. INTERDISCIPLINARY HIST. 43, 43-44, 60-65 (1985).

that it has arrived. From a historical vantage point, further, it is difficult to believe that the current iteration will be any different in its unpredictability.

I would, however, be happy to be proven overly pessimistic. And, I have an easy test for identifying when a game-changing, paradigm-shifting gender revolution has occurred: when I'm invited to a conference on the *End of Women*.