

## THE DUTY OF THE MOMENT: RETOOLING THE AGRARIAN MODEL OF WORK/HOME INTEGRATION

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*“Then He said to them, ‘Therefore every scribe instructed concerning the kingdom of heaven is like a householder who brings out of his treasure things new and old.’ (Mt 13:52)*

In his 1944 classic, *The Great Transformation*, Karl Polanyi offers an influential account of the historic shift from premodern to modern economies, famously writing that the industrial era “disembedded” economics from social relations. Though he acknowledges that systems of barter and exchange are age-old, he argues that principles of mutual obligation and reciprocity, not profit-making, governed these local markets.<sup>1</sup> Polanyi is joined by a diverse array of thinkers, including the social magisterium of the Catholic Church, that critique the materialist and consumerist values that accompanied the exclusive shift to the profit-motive in the market economy. Though the magisterium has well appreciated the myriad ways modern markets have substantially improved material conditions, every pope since Leo XIII has expressed deep concern with the deracinating impact of capitalistic values on society and the family.

The nature of human work is a consistent theme running through the social encyclicals and is a central inflection point in Polanyi’s analysis, too. In *Laborem Exercens* (1981), Pope Saint John Paul II focuses on work from a personalist perspective, writing that work is “probably the essential key, to the whole social question . . . .”<sup>2</sup> In the encyclical, he maintains that theory and practice can overcome the “fundamental error” of modern “economism” by elevating “the person over things, and of human labour [sic] over capital . . . .”<sup>3</sup> Almost in passing, he writes that work and family “must be properly united and must properly permeate each other,” later suggesting a “social re-evaluation of the mother’s role” to ensure that her “irreplaceable” caregiving and nurturance

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1. KARL POLANYI, *THE GREAT TRANSFORMATION* 54 (2001).

2. POPE JOHN PAUL II, *LABOREM EXERCENS* para. 3 (Sept. 14, 1981), [https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_14091981\\_laborem-exercens.html](https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_14091981_laborem-exercens.html) [hereinafter *LABOREM EXERCENS*] (emphasis omitted).

3. *Id.* para. 13 (emphasis omitted). See also paras. 3, 7.

in the home does not suffer from societal ill regard or discrimination in the workplace.<sup>4</sup> Though the interdependence of work and family is always assumed in Catholic social thought, there is much we might learn about the nature of human work—for women and men—*before* “the great disembedding” of economic from domestic life:<sup>5</sup> that is, *when these now conceptually distinct spheres totally permeated each other*.

In *The World We Have Lost*, the classic history of pre-industrial England, Peter Laslett writes: “[A] fundamental characteristic of the world we have lost was the *scene of labor*, which was universally supposed to be the home.”<sup>6</sup> “Marriage, we must insist . . . was the entry to full membership . . . .”<sup>7</sup> From the householders, their children and extended family members to live-in non-family laborers, “the whole of life went forward in the family, in a circle of loved, familiar faces, known and fondled objects, all to human size. That time has gone for ever [sic].”<sup>8</sup> Notably, Laslett suggests that Marxist analysis of

4. *Id.* at paras. 10, 19 (emphasis omitted). Pope John Paul II repeats these themes in *Mulieris Dignitatem*. See generally POPE JOHN PAUL II, *MULIERIS DIGNITATEM* (Aug. 15, 1988), [https://www.vatican.va/content/john-paul-ii/en/apost\\_letters/1988/documents/hf\\_jp-ii\\_apl\\_19880815\\_mulieris-dignitatem.html](https://www.vatican.va/content/john-paul-ii/en/apost_letters/1988/documents/hf_jp-ii_apl_19880815_mulieris-dignitatem.html).

5. POLANYI, *supra* note 1 at xxv.

6. PETER LASLETT, *THE WORLD WE HAVE LOST* 13 (1965) (emphasis added).

7. *Id.* at 11–12. Laslett’s observations about the presence of children in the agrarian household are of particular interest here:

In the pre-industrial world there were children everywhere; playing in the village street and fields when they were very small, hanging round the farmyards and getting in the way, until they had grown enough to be given child-sized jobs to do. . . .

. . . .

. . . The perpetual distraction of childish noise and talk must have affected everyone almost all the time, except of course the gentleman in his study or the lady in her boudoir; incessant interruptions to answer questions, quieten fears, rescue from danger or make peace between the quarreling. These crowds and crowds of little children are strangely absent from the written record . . . . There is something mysterious about the silence of all these multitudes of babes in arms, toddlers and adolescents in the statements men made at the time about their own experience. Children appear, of course, but so seldom and in such an indefinite way that we know very little indeed about child nurture in pre-industrial times . . . .

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. . . We cannot say whether fathers helped in the tending of infants or whether women and girls . . . did it as women’s peculiar business. We do not know how the instruction of children was divided between the parents, though it is natural to suppose that boys at least would learn how men behaved and how they worked the lathe, the plane, the plough, the loom from watching their fathers all and every day. Such letters as they learnt, and the stories of the past, traditionally came to them at their mothers’ knees, and their religious training too. But there is nothing as yet to confirm that this tradition is wholly correct.

*Id.* at 104. Do note, however, the alternative scene of medieval labor: vowed, celibate monastic communities.

8. *Id.* at 21. The low wage-earning hired hand who retreated from the household at night was exceptional; and a quarter of householding families lodged domestic servants, the largest

industrial capitalism, with its focus on alienation of labor from capital, has tended “to divert attention from the structural function of the family in the pre-industrial world . . . .”<sup>9</sup> Although scholarship in recent decades has analyzed the impact of industrialization on the decline of the patriarchal family, less attention has been given the fact that the new wage-earning men and women who went out to work in the industrial (and now post-industrial) workplace were (and are), as Laslett puts it, “bereft for ever [sic] of the *feeling that work, a family affair, carried with it.*”<sup>10</sup> The home, with industrialization, was transformed from the chief locus of work and productivity to the chief locus of consumption, and this has had untold consequences that remain with us to this day.<sup>11</sup>

In an effort to respond to *Laborem Exercens*’s insistence that solutions to modern conditions of human work are key to “making life more human,” this article will cull inspiration from principles and practices that Aristotle and others understood to have governed the pre-industrial *locus* of work: the deeply productive, economically interdependent, solidaristic, childrearing household. Though I well acknowledge, with Laslett, that we will never return to the deep embeddedness of the pre-industrial era—nor indeed would we wish to relinquish the enormous material gains that truly have “relieved man’s estate”—I will suggest that the modern family, and each member of it, would be well served by recovering a properly embedded understanding of work as a deeply human *and as such* familial, and indeed gendered, affair. To be fully human, work and home need to be better integrated and responsive to what I call the concrete duty of the moment, for both women and men.

## I. LEARNING FROM THE PRE-MODERN HOUSEHOLD

### A. *The Economically Interdependent Sharing in Life’s More (and Less) Excellent Labors*

In Book One of *The Politics*, Aristotle describes the management of the household (*oikonomia*), the largest sphere of pre-modern society. He maintains that the household comes into being for the needs of daily life, and ideally, the inculcation of virtue and friendship among its members. While the *polis* is the only fully self-sufficient entity that is comprised of many interdependent households (and the villages that naturally extend from them), the household

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occupational group before 1930. *Id.* at 226. Of course, this is not to suggest that such home and family-based labor were somehow inherently free of other potential pitfalls. That claim would be grossly ahistorical. Indentured servitude and chattel slavery, and other inhumane practices, accompanied this historical era as well. My point is that these concomitant realities should not keep us learning from this period too.

9. *Id.* at 19.

10. *Id.* at 18–19 (emphasis added).

11. See generally ERIKA BACHIOCHI, THE RIGHTS OF WOMEN (2021); Erika Bachiochi, *Pursuing the Reunification of Home and Work*, AM. COMPASS (July 15, 2022), <https://americancompass.org/pursuing-the-reunification-of-home-and-work/>.

should also enjoy a relative self-sufficiency, relying upon the cooperation of its members to provide for its internal needs.

In exploring the arts of household management, and their relation to human flourishing, Aristotle distinguishes between “householding” (or natural production *for use*) and “wealth-getting” (or unnatural production *for gain*).<sup>12</sup> While “the art of acquisition” is, according to Aristotle, natural and necessary to household management—by “find[ing] ready to hand or itself provid[ing] such things necessary to life” or even by market exchange with others since “some have too little, others too much”—there is a species of “wealth-getting” that is unnatural and improper. It originates in men who “are intent upon living only, and not upon living well,” and seek to “increase . . . money without limit.”<sup>13</sup> Concerning this analysis, Polanyi observes early in *The Great Transformation*, “Only a genius of common sense could have maintained, as [Aristotle] did, that . . . as long as markets and money were mere accessories to an otherwise self-sufficient household, the [natural] principle of production for use could operate.”<sup>14</sup>

In Aristotle’s (and Polanyi’s) view, then, markets ought to remain secondary to, and in service of, the household, whose relative self-sufficiency demands each member’s rightful contribution. After all, the duties of premodern household management consisted not only of the arts of acquisition, production, use and exchange, some of which, Aristotle observes, tend toward the mean and servile (in that they deteriorate the body) and the illiberal (in that they are in “least need of excellence”).<sup>15</sup> Aristotle writes that more even than these arts, household management is concerned with “the excellence of men”: “to rule over men is better than to rule over wild beasts . . .”<sup>16</sup> So though the subsistence household of the premodern era was not as centrally focused on “childrearing” as households in our day,<sup>17</sup> Aristotle well saw that *cultivating human virtue and friendship in and through* productive and nurturant work is the more excellent, *that for which* the rest exists: “the better part.”<sup>18</sup>

12. POLANYI, *supra* note 1, at 56.

13. 1 ARISTOTLE, THE POLITICS (350 B.C.E.) (Benjamin Jowett trans., The Internet Classics Archive), <http://classics.mit.edu/Aristotle/politics.html>.

14. POLANYI, *supra* note 1, at 56 (emphasis added); see also Mark Shiffman, *The Rediscovery of Oikonomia*, in THE HUMANE VISION OF WENDELL BERRY 354–55 (Mark T. Mitchell and Nathan Schlueter eds., 2011) (ebook) (“[O]ikonomia recognizes limits to acquisition, since it takes its measure by the standard of self-sufficiency with a view to a good life, which means a life embodying virtue and friendship.”). For an excellent discussion of *oikonomia*, see generally DAVID MCPHERSON, THE VIRTUES OF LIMITS 143–55 (2022).

15. Aristotle is distinguishing “illiberal” from “liberal” arts which are in themselves useless and nonproductive, and *for their own sake*. ARISTOTLE, *supra* note 13, part XI.

16. *Id.*, part V.

17. Philippe Ariès suggests that only in the 15th century did the household begin to center on the education and formation of children. PHILIPPE ARIÈS, CENTURIES OF CHILDHOOD: A SOCIAL HISTORY OF FAMILY LIFE 369 (Robert Baldick trans., Vintage Books 1962).

18. As Aristotle explained:

Between man and wife friendship seems to exist by nature; for man is naturally inclined to form couples—even more than to form cities, inasmuch as the household is earlier

It is important to notice that, in *The Politics*, household management is shared by men and women, even as the father was at that time, and is in Aristotle's telling, its proper head.<sup>19</sup> If we could say that men *generally* worked

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and more necessary than the city, and reproduction is more common to man with the animals. With the other animals the union extends only to this point, but human beings live together not only for the sake of reproduction but also for the various purposes of life; for from the start the functions are divided, and those of man and woman are different; so they help each other by throwing their peculiar gifts into the common stock. It is for these reasons that both utility and pleasure seem to be found in this kind of friendship. But this friendship may be based also on virtue, if the parties are good; for each has its own virtue and they will delight in the fact. And children seem to be a bond of union (which is the reason why childless people part more easily); for children are a good common to both and what is common holds them together.

8 ARISTOTLE, NICOMACHEAN ETHICS (350 B.C.E.) (W.D. Ross trans., The Internet Classics Archive), <http://classics.mit.edu/Aristotle/nicomachaen.html>. Here, I also make reference to the parable of Mary and Martha in the Gospels.

19. Aristotle's *Politics* provides a lengthy treatment of the patriarchal nature of rule in the household, and women's (generally) lesser rationality due to a want of "authority." I have treated the latter point elsewhere. See Erika Bachiochi, *Sex-Realist Feminism*, FIRST THINGS (Apr. 2023), <https://www.firstthings.com/article/2023/04/sex-realist-feminism>. It is in Book One too that Aristotle discusses his controversial views on natural slavery, which are far outside the scope of this article. Ariès traces the nature of property ownership and legal rule of the household: from husband and wife owning property from their respective family lines in the tenth century, toward joint ownership between spouses in eleventh and twelfth century France, with the law of primogeniture (and greater authority in the father) spreading in the centuries that followed:

We know too that from the end of the Middle Ages on, the power of the wife steadily diminished. . . . The substitution of the law of primogeniture for joint ownership and the joint estate of husband and wife can be seen as a sign of the recognition of the importance both of paternal authority and of the place assumed in everyday life by the group of the father and children.

ARIÈS, *supra* note 17, at 355. Ariès explains:

Starting in the fourteenth century, we see a slow and steady deterioration of the wife's position in the household. She loses the right to take the place of the husband in his absence . . . Finally, in the sixteenth century, the married woman is placed under a disability so that any acts she performs without the authority of her husband or the law are null and void. This development strengthens the powers of the husband, who is finally established as a sort of domestic monarch.

ARIÈS, *supra* note 17, at 356 (quoting another source) (internal quotation marks omitted). See also 1 WILLIAM BLACKSTONE, COMMENTARIES \*430 (2009), <https://www.gutenberg.org/cache/epub/30802/pg30802-images.html> ("[T]he very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband: under whose wing, protection, and cover, she performs every thing [sic] . . ."). By committing to paper in 1765 what was heretofore unwritten law, Blackstone in some sense effectuated "coverture" in a way that it had not been fully before.

Scholars such as Mary Ann Glendon, and more recently Steven Ruggles, have shown industrialization's impact on the decline of both patriarchal rule and multi-generational families as well as on the rise of early marriage during that period as wage-earning sons no longer had to wait to inherit the family farm to establish an independent household. Subsequently, as male wages have steadily declined, early marriage and marriage rates overall have declined as well. See generally MARY ANN GLENDON, THE TRANSFORMATION OF FAMILY LAW (1989); Steven Ruggles, *Patriarchy, Power, and Pay: The Transformation of American Families, 1800–2015*, 52 DEMOGRAPHY 1797 (2015).

*outside* and women *inside*, both still worked *within the confines of the household*, participating in and sharing that work which was, in parts, servile, illiberal and excellent. All this rightly convened in spousal friendship.<sup>20</sup>

With the industrial-era movement of remunerative work out of the home, an altogether new gendered division of labor took shape, with market-based wage labor now the prototype for work, *per se*. With this disembedding of work from the home arose distinctive kinds of alienation for women and men, and the risk that the humanizing aspects of work (especially concerning the education and cultivation of virtue in children) would no longer be shared. The creative agency that (often, *admittedly*, materially desperate) subsistence economies inspired in individuals and households—the need to respond to the duty of the moment, *now* milking the cow, *now* washing the child, *now* minding the fire—was traded with industrialization for more static roles in increasingly “separate spheres” of home and work.

In a historical sense, Aristotle’s observations about the relatively self-sufficient, patriarchal household are now *passé*; very few households, in the developed world, enjoy self-sufficiency in the sense Aristotle observed, and in the Western world, patriarchal law no longer reigns. But at least two principles of the household can be culled from this classic text to inform our own disembedded time. First, Aristotle’s distinction between work and production for household use and for mere profit-making (“unnatural production for gain”), drawn out by Polanyi, remains an important one in Catholic social teaching and should better inform the household and its recentering in politics and economics today. As Pope Benedict writes in *Caritas in Veritate*,

Profit is useful if it serves as a means towards an end that provides a sense both of how to produce it and how to make good use of it. *Once profit becomes the exclusive goal*, if it is produced by improper means and without the common good as its ultimate end, it risks destroying wealth and creating poverty,

and not only in the material sense.<sup>21</sup> Second, for married men and women’s labors to be fully human, household work itself, and the market work that serves it, properly requires an interdependent sharing in the goods—and trials—of these labors, and indeed, a sense of common ownership of the home.

### *B. Asymmetric Alienation*

As I discuss in *The Rights of Women* and elsewhere, the industrial-era transformation of self-sufficient—and productive—households into wage-earning—and consumer—households acutely impacted each member of the family, and was a key catalyst in the early women’s rights movement.<sup>22</sup> The very first legal reforms the nineteenth century women’s rights advocates sought

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20. See ARISTOTLE, *supra* note 18.

21. POPE BENEDICT XVI, *CARITAS IN VERITATE* para. 21 (June 29, 2009), [https://www.vatican.va/content/benedict-xvi/en/encyclicals/documents/hf\\_ben-xvi\\_enc\\_20090629\\_caritas-in-veritate.html](https://www.vatican.va/content/benedict-xvi/en/encyclicals/documents/hf_ben-xvi_enc_20090629_caritas-in-veritate.html) (emphasis added).

22. See BACHIOCHI, *THE RIGHTS OF WOMEN*, *supra* note 11.

were to property law: given women's economic productivity in the home, they wished to jointly own their property with their husbands rather than allow title remain in his name alone. Indeed, the household's consumer needs (acquisition for use) and now seemingly unlimited consumer desires (acquisition for gain) continue to put enormous earnings pressure on members of the household, even as the same renders women who dedicate themselves to the caregiving in the home (for years or even months) more economically vulnerable in the case of marital breakdown. Feminist advocacy rightly seeks to attend to the risks to women (and their children) of this one-sided economic dependence, yet most modern feminists seem intent on securing women's *independence from* men. Spousal *interdependence* was the pre-modern way and should better inform the future.

There is yet another aspect of industrial-era transformation of work beyond the loss of economic interdependency that we are still contending with today. As men's productive work left the home, and technology revolutionized women's work within it, a certain forgetfulness of women's perennial labor in, and management of, the productive household gave way in the industrial era to (not altogether new) depictions of women as passive, timid and fragile, properly sequestered in the domestic sphere and freed from the burdens of production.<sup>23</sup> As the industrial workplace was predominately (though never exclusively) "masculine," the domestic sphere became increasingly coded "feminine." Even the décor of the home became "feminine," liberated as it now was from the messy business of household production. Bret McKay observes:

Before the Industrial Revolution . . . [a] man used his home as his place of business and, consequently, homes were designed to accommodate the needs of the dirty work of farming, blacksmithing, and leatherworking. When you work every day in dirt and grime, you can't worry about taking off your boots so you don't soil the rug. . . .

. . . .

. . . Consequently, the home had a predominantly masculine vibe. Exposed beams, dirt floors, and earthen fireplaces were the norm. . . . [With industrialization] a strict work/home dichotomy developed, with women given domain over the latter. . . . Without an earthen floor and sawdust shavings everywhere, the possibility of keeping things clean and tidy became attainable, and women bought carpets, white drapes, and flower-filled vases in the name of creating a soft oasis for their husbands. But what they really had made was

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23. ANN DOUGLAS, *FEMINIZATION OF AMERICAN CULTURE* (1988) (arguing that sentimental depictions of women as preoccupied with "glamour, banal melodrama, and mindless consumption" can be traced to the Victorian era when both women and men wrote books that idealized qualities of timidity in women). Readers of Tocqueville's *Democracy in America*, however, will notice that his treatment of the separate spheres men and women occupied, observed in his travels in early nineteenth-century America, does not depict women in this way; rather, he treats them as uniquely strong and capable. See ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 590–603 (George Lawrence trans., J. P. Mayer ed., 1969).

the type of place a *woman* would feel most comfortable, and men fled their doily-laden home to spend time at the bars and fraternal lodges with their boys. *The home had become a female space.*<sup>24</sup>

With industrialization begins the alienation of not only labor from capital or work from ownership as we so often hear, but of fathers from their homes—from something (and some ones) that is properly “theirs.” While paternal authority was likely easy to come by when the entire household witnessed the father engaged in hard labor all day for his wife and children, the same can no longer be said when he earns his wages outside the home. His labors become invisible to them, and in his absence, *maternal* authority over children’s well-being in the home is presumed.<sup>25</sup> The father is still needed for his paycheck but too often *he* lost *his place*; his authority is no longer experienced organically, but must instead be asserted.<sup>26</sup>

But this industrial era depiction of the home as the feminine sphere—and real “work” being that which offers a wage—tended over time also to represent a loss of status for homemaking and a loss of identity and purpose for the homemaking mother.<sup>27</sup> While perceptibly noticing women’s new job as the country’s “chief consumer,” Betty Friedan’s negative depiction of the work of the home further eroded its status, building upon complaints of homemakers’ “unpaid” labor by even earlier feminists such as Charlotte Perkins Gilmore. Meanwhile, time-saving machines and other consumer products designed to ease the work of the home also meant that many of the real, concrete skills of domestic self-sufficiency (including barter and trade within local markets) were considered unnecessary and progressively unlearned.<sup>28</sup> While the market has surely provided many real goods that have steadily transformed household

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24. Bret McKay, *The Decline of Male Space*, THE ART OF MANLINESS (Sept. 25, 2021), <https://www.artofmanliness.com/character/behavior/the-decline-of-male-space/> (emphasis added).

25. “Mental load” is the term now used in the literature to describe the invisible cognitive and emotional work women often take on to manage a household. This often-overwhelming unilateral household management sometimes translates into wives treating their husbands as children, further alienating men from their rightful place in the home.

26. See Bachiochi, *Pursuing the Reunification of Home and Work*, *supra* note 11:

As the artificial work environment, whether in factories or newly erected skyscrapers, aggravated the stresses of work that were newly alienating men from the land, their bodies, and their children, their new economic dependence upon other men introduced a new kind of class-based resentment, too. Exhausted and ill-tempered by the time they reached home, generations of men could do little but collapse in front of the television, drink in hand. Relationships with their wives and children, and in their communities in which they had been deeply integrated, became harder to sustain.

27. Making the same point, Shannon Hayes writes, “[T]he role of the home has moved from being the central form of economic production and survival, to a separate sphere that is considered ancillary to our culture.” SHANNON HAYES, *RADICAL HOMEMAKERS* 82 (2010).

28. Dorothy Sayers also noticed this early on, when she wrote in 1947: “It is perfectly idiotic to take away women’s traditional occupations and then complain because she looks for new ones. Every woman is a human being—one cannot repeat that too often—and a human being must have occupation . . . .” DOROTHY L. SAYERS, *ARE WOMEN HUMAN? ASTUTE AND WITTY ESSAYS ON THE ROLE OF WOMEN IN SOCIETY* 33 (2005) (emphasis omitted) [hereinafter *ARE WOMEN HUMAN?*].



labor, it sometimes works to *substitute inferior goods for superior ones*.<sup>29</sup> Child care and food production come readily to mind.

The rest of the story is now well known: following the release of Friedan's *The Feminine Mystique*, women (including mothers of small children) entered the paid workforce in droves. But more than a half-century later, both highly educated women and especially their less privileged sisters remain deeply unsatisfied with the post-industrial division of labor. More progressive (generally elite) women continue to bemoan the lack of gender parity in the workplace, still-poor workplace accommodations for mothers, and the "second shift" for which mothers seem disproportionately responsible at home. Meanwhile, women who prioritize the work of the home wish for greater cultural respect and economic security. But women are not alone in their dissatisfaction: men who are fathers consistently report wanting more time at home with their children.<sup>30</sup> More still, men without children are increasingly bereft of deep connections with those who need them, with a home and family that is properly *theirs*.<sup>31</sup> The human excellence found in cultivating virtue and spousal friendship in and through the household is missing in men's lives; servile and illiberal wage labor is often all men (and many women) have.<sup>32</sup>

Meanwhile, political leaders from across the political spectrum remain dedicated to ensuring strong household *consumption*. The American right tends to focus on growing the market to do so while the American left wishes to redistribute its winnings.<sup>33</sup> Reminiscent of Aristotle's emphasis on production for use in the original domestic economy, thinkers like Oren Cass argue that we should refocus our political economy from emphasizing measures of consumption toward "productive pluralism"—"the social and economic conditions for a robust labor market in which all Americans can be contributors,

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29. I owe credit to Ivana Greco for this formulation.

30. Christopher Lasch writes insightfully of the peculiar reality of each of the sexes wishing for the other's brand of alienation:

[A]n order based on a strict separation between the home and the workplace and a strict division of sexual labor, was that each sex envied the lives led by the other. Men envied the domestic security supposedly enjoyed by their wives; women envied the exciting careers supposedly enjoyed by their husbands.

CHRISTOPHER LASCH, *WOMEN AND THE COMMON LIFE: LOVE, MARRIAGE, AND FEMINISM* 115 (Elizabeth Lasch-Quinn ed., 1997).

31. RICHARD REEVES, *OF BOYS AND MEN: WHY THE MODERN MAN IS STRUGGLING, WHY IT MATTERS, AND WHAT TO DO ABOUT IT* 39 (2022) ("One of the great revelations of feminism may turn out to be that men need women more than women need men. Wives were economically dependent on their husbands, but men were emotionally dependent on their wives.").

32. See generally MELISSA KEARNEY, *THE TWO PARENT PRIVILEGE* (2023), for an abundance of evidence of the merits of sharing household management and raising children together and the difficulty single mothers especially have in parenting the way they would like.

33. For instance, Ruggles concludes his analysis of the transformative impact of work on family by suggesting that the challenges of the modern economy have mainly to do with the lack of mechanisms for redistribution. The modern economy is capable of producing enormous wealth, but we can't manage "to get money into the hands of people—especially young people—so that they can buy all those goods and services that the robots can produce . . ." Ruggles, *supra* note 19, at 1819.

achieve self-sufficiency and support strong families and communities.”<sup>34</sup> Insofar as this effort can shift the nation to recall that markets are meant to serve households, and be shaped by reciprocity and mutual obligation, this reorientation (even rhetorically from the bully pulpit of our political and cultural leaders) would be an advance toward a more humane account of political economy.<sup>35</sup> But as the foregoing has detailed, an analysis of political economy must also be accompanied by renewed attention to the disembedding of work from home, and the asymmetric alienation in some women’s and men’s lives that remains with us to this day.

## II. TOWARD AN AMBIGUOUS COMPLEMENTARITY AND GENDERED LAW THAT RECENTERS THE HOUSEHOLD

### A. *Ambiguous Complementarity*

In *Feminism Against Progress*, Mary Harrington<sup>36</sup> tells a similar story of industrial era disembedding, supplementing Polanyi’s famous account with Ivan Illich’s analysis of the “disembedded” relations of men and women in his 1982 book, *Gender*.<sup>37</sup> Illich employs the terms “vernacular gender” to describe pre-industrial relations and “economic sex” for the state of gender relations once the modern market (and market mentality) becomes dominant. Illich argues that even as most pre-industrial societies were likely patriarchal, the kind of economic interdependence women shared with men in the household often made those societies less “discriminatory” against women than the modern market economy. As I have noted in Part I, the strong consumerist turn in the modern household further aggravates mothers’ economic disadvantage as the household demands more and more earnings from the market economy.<sup>38</sup>

Illich’s two-fold response to the risk of sexist treatment of the modern mother (in the workplace and the home) parallels principles I have drawn from Aristotle in Part I. First, members of the household ought to work for the

34. OREN CASS, *THE ONCE AND FUTURE WORKER: A VISION FOR THE RENEWAL OF WORK IN AMERICA* 209 (2018) (e-book).

35. As Dorothy Sayers once said: “A society in which consumption has to be artificially stimulated in order to keep production going is a society founded on trash and waste, and such a society is a house built upon sand.” DOROTHY SAYERS, *LETTERS TO A DIMINISHED CHURCH: PASSIONATE ARGUMENTS FOR THE RELEVANCE OF CHRISTIAN DOCTRINE* 119 (2004).

36. MARY HARRINGTON, *FEMINISM AGAINST PROGRESS* (2023).

37. IVAN ILLICH, *GENDER* (1982). Illich self-consciously understood himself to be working from Polanyi’s framework: “What Karl Polanyi has called the ‘disembedding’ of a formal market economy, I am describing, anthropologically, as the transmogrification of gender to sex.” *Id.* at 14–15.

38. Illich refers to the household work “dependent” women do in the home while “breadwinning” men earn wages to support it as “shadow work”—a shadow of the wage labor that supports it. He recognizes that work to be altogether different in kind from the highly skilled, more obviously gender-specific work they did, and upon which the household relied, prior to industrialization. “The proliferation of [mechanical] equipment increases the time-volume of the shadow work performed, and, by rendering housework more genderless, it lays more solid foundations for sexism in the home.” *Id.* at 36 n.24.

contraction of consumer needs (and wants) and “the expansion of non-market-related, non-economic forms of subsistence” in an effort to attain less household dependence on the “cash nexus” (modern market) and greater household self-sufficiency.<sup>39</sup> Indeed, many women (and men) dedicated to modern homemaking and householding view their work in this vein, as a means—like pre-modern householders—to employ their ingenuity and thrift to decrease dependence on external sources, as well as build up local markets for the reciprocal exchange of goods and services.<sup>40</sup> Second, law and society ought to imagine a more ambiguous complementarity between men and women and greater interdependence (or “balance”) in their relationship.

To that end, without offering a full account (and indeed calling for more research in this area), Illich helpfully distinguishes between patriarchal, sexist, and gendered law. In Western states, patriarchal laws such as primogeniture, coverture, and the husband’s sexual presumption in marriage have been banished by the law, and women enjoy the same civil and political rights as men. But, as Illich insightfully argues (and I have argued extensively), in some cases, gender-neutral law can actually be quite sexist (i.e., personally degrading to individual women who must compete with men for subsistence) when it fails to make room for embodied sexual difference.<sup>41</sup> This difference is most obviously true with regard to the distinctive privileges (and burdens) women

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39. *Id.* at 16.

40. See HAYES, *supra* note 27, at 9 (“Mainstream American culture views the household as a unit of consumption. . . . [But] [b]y growing their own food, living within their means, providing much of their own health care, and relying on community, family[,] and barter for meeting their remaining needs, [the radical homemakers’] household was essentially a unit of production (just not by the standards of a market economy).” (emphasis omitted)); see also HEARTH MATTERS, <https://www.thehearthmatters.com/p/e00-kathryn-lukas-damer-and-erin> (crafting creative ideas to revalue and reinvent the goods of the household in the [twenty-first] century, including a cottage economy model called “domesteconomy”); see also HARRINGTON, *supra* note 36, ch. 7 (collecting stories of marriages built around the common work of household production). Potential legal reforms should be studied to remove obstacles in the way of householding and the recreation of local markets: (1) amend zoning ordinances and other regulations that prohibit commerce in residential areas to exclude home-based businesses; (2) relax regulations on home-based childcare and home-schooling; and (3) relax regulations of food safety in home-based food businesses. See also MCPHERSON, *supra* note 14, at 146 (arguing for distributism or what he prefers to call “economic decentralization . . . which means endorsing policies that help to disperse property widely and sufficiently, rather than having it concentrated in the hands of a few, and promoting and protecting local economies”) (emphasis in original); see E. F. SCHUMACHER, *SMALL IS BEAUTIFUL: ECONOMICS AS IF PEOPLE MATTERED* 31 (1973) (“Permanence is incompatible with a predatory attitude which rejoices in the fact that ‘what were luxuries for our fathers have become necessities for us[.]’ The cultivation and expansion of needs is the antithesis of wisdom. It is also the antithesis of freedom and peace . . .”).

41. See generally BACHIOCHI, *THE RIGHTS OF WOMEN*, *supra* note 11; see also Erika Bachiochi, *The Contested Meaning of Women’s Equality*, NAT’L AFFS. (Winter 2021), <https://www.nationalaffairs.com/publications/detail/the-contested-meaning-of-womens-equality> (arguing that robust family policy rather than strict gender equality found in the Equal Rights Amendment is far better for pregnant women, wage-earning mothers, and child-rearing families generally).

enjoy in pregnancy, childbearing, breastfeeding and early caregiving.<sup>42</sup> From a now market-dominant perspective (what I have called the “logic of the market” and Illich calls “economic sex”), these natural female experiences are routinely deemed but obstacles for women competing for market opportunities with men. Indeed, as I have written, the very drive for *market equality* in modern feminism rests on a male normative account of the rights-bearing, wage-earning, unencumbered, “equal” individual, and so necessitates (from that perspective) abortion rights as (market) equality rights.<sup>43</sup> Illich is right to call this modern paradigm what it is: *sexist*.

Gendered law, in Illich’s telling, would recognize both the equal dignity, and in Illich’s words, “fuzzy, partly incongruous” *ambiguous complementarity* of men and women. The latter was concretely lived in the *pre-modern* economy when women had gender-specific, culturally defined concrete tasks that were essential to the management of the household (which, as I’ve explored, was the largest sphere of society and the locus of nearly all work).<sup>44</sup> However, the former—the equal dignity of men and women—is now *far* better recognized and acknowledged by *modern* Church and state.<sup>45</sup>

Though *congruous* complementarity might rightly describe the *reproductive* capacities of men and women, *ambiguous* complementarity (that is, ‘partly incongruous’) maintains there is no univocal account of gender relations in the family or elsewhere.<sup>46</sup> That is, men and women are not static kinds of sexually dimorphic beings that always and everywhere relate to each other in the very same ways. The duty of the moment for women and men—as mothers and fathers—requires more and less of each of them (and their distinctively gendered but uniquely individual capacities for nurturance and provision) at different stages in their children’s lives: *now* earning income for basic household subsistence, *now* bearing a child and carving out precious time

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42. Bachiochi, *The Contested Meaning of Women’s Equality*, *supra* note 41; see also ERICA KOMISAR, BEING THERE: WHY PRIORITIZING MOTHERHOOD IN THE FIRST THREE YEARS MATTERS (2017) (arguing that the best research on child development reveals that a mother’s emotional and physical presence in her child’s early years offers untold developmental advantages for the child).

43. See BACHIOCHI, *THE RIGHTS OF WOMEN*, *supra* note 11.

44. ILLICH, *supra* note 37, at 45 (“[Prior to industrialization], a man without a woman to keep house could barely survive. . . . [H]e had no way to make, wash, and mend his clothes . . .”).

45. Three historic transformations since the great disembedding guide my *reimagining*: first, the Catholic Church and all modern states have corrected historical assumptions of women’s intellectual and moral inferiority, now treating both men and women in canon and secular law as equally rational and moral agents; second, the modern Church rightly prioritizes vocational discernment (of gifts, circumstances, constraints, and divine call) as individuals fulfill their respective, embodied duties; third, rather than the one-sided dependence and submission of wife upon husband, the Church rightly highlights the interdependence, mutual submission and indeed collaboration of men and women. See *MULIERIS DIGNITATEM*, *supra* note 4; see also Pope Benedict, *Letter to the Bishops of the Catholic Church on the Collaboration of Men and Women in the Church and in the World*, HOLY SEE (May 31, 2004), [https://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_20040731\\_collaboration\\_en.html](https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20040731_collaboration_en.html).

46. Good evidence reveals, on average, various gender differences in personality and temperament but even these exist as overlapping distributions with plenty of outliers. This is no less true in the family than anywhere else.

for his nurture, *now* finding the means to pay for his education. As Rachel Lu blithely puts the point: “babies (as a rule) are cheap but very needy while . . . [o]lder children need braces and education more than a helicopter attendant.”<sup>47</sup> But even as each couple’s practical wisdom must govern the various, ever-changing duties in the home (and individual capacities and vocations for paid work outside the home), they always and everywhere relate *as asymmetric, concrete men and women*—never as unisex beings. For this reason, Illich envisions a kaleidoscope of complementary expressions to emerge, as unique as each unique couple comprised of unique men and women: “[a] constant *incarnation* of . . . symbolic duality . . . .”<sup>48</sup>

Importantly, Illich wishes for such incarnations to be well-grounded in the concrete reality of dimorphic embodiment: “[T]he dual, specific whole that the complementarity of concrete genders brings into being—a ‘world,’ a ‘society,’ a ‘community’—is both shaped and limited, asymmetrically, by its components.”<sup>49</sup> Interdependent, sexually asymmetrical human beings are indeed limited (and privileged) *by the need for a home*, a place that is *theirs* with people who are *theirs*, in and through which they each might develop, grow and nurture one another.<sup>50</sup> The “domus” or house, Illich well argues, is and has ever been the basic social unit where both men and women “make themselves at home through every move.”<sup>51</sup> Still, Illich argues (and who can deny it), the home takes on a “special significance” and is a “special space” for women who “can engender the unbroken succession of life . . . because it is they who bear living bodies.”<sup>52</sup>

Although not every woman will bear children, *every child is born of a woman*.<sup>53</sup> A mother needs a *place* to nurture, just as she needs, as much as possible (and desirable), the father of that child to *share* in the labors of that place, be they servile, illiberal or excellent. To fully respect women and the children they bear—and the fathers those children (and their mothers) need—

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47. Rachel Lu, *Tearing Down the Maternal Wall*, FAIRER DISPUTATIONS (Feb. 16, 2024), <https://fairerdisputations.org/maternal-wall/>.

48. ILLICH, *supra* note 37, at 50 (emphasis in original).

49. *Id.* at 53.

50. See also ROGER SCRUTON, *HOW TO BE A CONSERVATIVE* 119 (2014) (“We are home-building creatures, cooperating in the search for intrinsic values, and what matters to us are the ends, not the means of our existence.”). See generally TIMOTHY P. CARNEY, *FAMILY UNFRIENDLY: HOW OUR FAMILY MADE RAISING KIDS MUCH HARDER THAN IT NEEDED TO BE* (2024) (suggesting a myriad of creative policy changes that would simplify American parenting).

51. ILLICH, *supra* note 37, at 76.

52. *Id.* at 52. It’s no surprise then that researchers have recently reported that when a married couple owns their own home, mothers are more likely to specialize in managing the goods of the home because, in the case of divorce, “she retains a huge portion of his earnings in the form of the home.” Charles Fain Lehman, *The Housing Theory of Marriage*, INST. FAM. STUDS. (Oct. 23, 2023), <https://ifstudies.org/blog/the-housing-theory-of-marriage>. See also Jeanne Lafortune & Corinne Low, *Collateralized Marriage*, 15(4) AM. ECON. J.: APPLIED ECON. 252–91 (2023).

53. I credit Nina Power with this elegant formulation. Nina Power, *Positive Differentiation*, FAIRER DISPUTATIONS (Mar. 24, 2023), <https://fairerdisputations.org/positive-differentiation/>.

the home must be recentered in modern political economy.<sup>54</sup> Re-embedding our politics and economics in the household can assist in men's flourishing too, *as to be fully human* they too need the goods—and potential excellences—of solidarity, virtue formation and spousal friendship in the household, whether as fathers themselves, *or as the child every man once was*.

*B. Gendered Law That Recenters the Household:  
Overlapping Spheres*

As men and women share many more similarities than differences, the vast majority of laws ought to remain gender neutral.<sup>55</sup> But Illich is correct to argue that gender-neutral laws and policies can be “sexist” in the modern economy, because they treat women and men as interchangeable in arenas where they clearly are not. Women and men are neither interchangeable in their reproductive contributions, nor in the constitutive relations each woman or man, as mother or father, has with her or his particular children. So while Nobel laureate Claudia Goldin has insightfully identified interchangeability and substitution of one employee for another as a key determinant of gender parity in salary in the modern workplace,<sup>56</sup> no one can ever adequately substitute for a mother or a father in the formative relationship they each have with their child.<sup>57</sup> More still, although mothers and fathers generally can substitute for one another at many stages of the child's long development, the mother's physical and emotional presence is far more necessary in the earliest days, months—and perhaps even years<sup>58</sup>—of the child's early life. A properly

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54. Scruton calls for “putting the *oikos* back in the *oikonomia*.” SCRUTON, *supra* note 50, at 25 (emphasis in original).

55. Various pre-modern and modern accounts of passive, delicate and less rational “female nature” kept women from enjoying full access to civic, political, educational, and professional arenas in which they are clearly capable. See BACHIOCHI, *Sex-Realist Feminism*, *supra* note 19.

56. CLAUDIA GOLDIN, CAREER & FAMILY (2021). Goldin identifies greedy jobs as those that make demands on one's time that are not substitutable. While good family policy ought to create incentives for more flexible workplaces, there are some jobs that are simply very difficult to substitute. Parents who wish to be deeply engaged in the lives of their children, and especially mothers who recognize their special responsibilities to infants and young children, are right to assess which jobs and professions allow the kind of workplace flexibility parents often need. “Women's work” in the industrial era usually referred to ‘caregiving’ work that could fit around caregiving responsibilities in the home; but it is also good to notice that in the post-industrial knowledge and service economy, many tasks that were once carried out predominantly by women in the pre-modern household have moved into the paid workforce: nursing and medicine; education; personnel management. See ARE WOMEN HUMAN?, *supra* note 28.

57. Katharine B. Stevens, *Raising Young Children at Home*, in REBUILDING AMERICAN CAPITALISM: A HANDBOOK FOR CONSERVATIVE POLICYMAKERS 80 (2023), [https://americancompass.org/wp-content/uploads/2023/06/AC-Rebuilding-American-Capitalism\\_Digital.pdf](https://americancompass.org/wp-content/uploads/2023/06/AC-Rebuilding-American-Capitalism_Digital.pdf); see generally DANA SUSKIND WITH LYDIA DENWORTH, PARENT NATION (2022).

58. See KOMISAR, *supra* note 42. The early women's rights advocates recognized and honored these sexual asymmetries, seeking moral, legal and political means to elevate the goods of the home and women's status as (potential and actual) mothers. See BACHIOCHI, THE RIGHTS OF WOMEN, *supra* note 11.

gendered law takes account of these differences for the good of both mother and child—and for the good of the father, who ought to be expected not only to provide for this nurture but also to fully engage in the goods of the home.

The most obvious arenas in which law and policy should be “gendered,” then, are in the overlapping spheres of home and work. As Part I worked to demonstrate, the fully separate spheres of work and home in the post-industrial consumer economy tend to alienate both men and women, but very few households are able to (or interested in) absenting themselves entirely from the market economy to fully embed work in the household. *Overlapping spheres*, in which the chief homemaker (usually but not always the mother) is *free to prioritize* the work of household—while potentially also engaging in market work—is *both enabled by and enables* the chief wage-earner the freedom to *prioritize* the market work that serves the household (production for use), even as he too engages deeply in the goods of the household.<sup>59</sup> Only the couple’s practical wisdom, reflecting on the “duty of the moment” and their concrete circumstances, can determine the degree of overlap at various stages in the life of the family.

Consider the question of paid leave. While both mothers and fathers who engage in market work deserve parental leave after the birth of a child—and indeed, greater flexibility thereafter—a mother’s needs in the early weeks and months are far more urgent and time-consuming than a father’s. Thus, a properly gendered law would prioritize paid *maternity* leave over *paternity* leave in duration and generosity.<sup>60</sup> But to ensure employers not wrongfully discriminate against women of child-bearing age in their hiring and promotion policies—since they don’t know how any *particular* woman (or man) will act

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Though [Mary Wollstonecraft] observed that the rearing of young children justly appeared to be the “peculiar destination of women,” and she valorized breastfeeding as the best means to instill early on shared maternal and filial affections, she did not regard “women’s role” as confined to the private sphere. No, she simply regarded domestic life as the most important sphere in society. It was the seedbed for the cultivation of virtue in children, and in their parents.

*Id.* at 39.

59. Importantly, attention must be given the attendant risks to the homemaker in this scenario. For instance, see Lehman, *supra* note 52 (describing how home ownership alleviates some of the risk attendant to home-specializing spouse, reporting on the Lafortune study cited); for other creative policy solutions to protect homemakers, see also Ivana Greco, *A Home Security System*, AM. COMPASS (Sept. 21, 2022), <https://americancompass.org/a-home-security-system/>; Ivana Greco, *Protecting the Home Front: Why We Need a “G.I. Bill” for Homemakers*, FAIRER DISPUTATIONS (Feb. 9, 2024), <https://fairerdisputations.org/protecting-the-home-front-why-we-need-a-g-i-bill-for-homemakers/>; *see generally*, Ivana Greco, <https://thefrontsubstack.com>.

60. *See* ETHICS AND PUBLIC POLICY CENTER AND THE INSTITUTE OF FAMILY STUDIES, LETTER TO CHAIRMAN WYDEN AND MEMBERS OF THE SENATE COMMITTEE ON FINANCE (Oct. 24, 2023), <https://eppc.org/news/eppc-scholars-pen-joint-letter-on-paid-leave-principles/> (scholars at the Ethics and Public Policy Center and the Institute of Family Studies (including this author) articulating principles and priorities in evaluating paid leave proposals) (“a paid leave policy that adopts a strict gender egalitarianism does new mothers a disservice. Any paid leave program worth its salt must prioritize mothers who are recovering from childbirth.”) (emphasis omitted).

ahead of time<sup>61</sup>—a robustly gendered policy would provide paid leave to both but enable mothers and fathers, should they so choose, to take their leave at different times of the child’s young life.<sup>62</sup> This sort of policy announces that children are rightly the equal responsibility of both mothers and fathers while recognizing the nature of those duties, because embodied, are asymmetrical. It also allows for the unique needs of each household to be met: while most fathers are not needed at home after a couple of weeks post-partum, some are needed even less, while others (in the case of other young children, disability, or the like) may need more leave at the outset.

Given the need men, women and children all have for a *place that is theirs* in which to nurture and be nurtured, a properly gendered law would also recollect the way in which “the household” long provided legal protections and identity to its members. Too readily today—and with too little contemplation of the unintended consequences to parental authority and familial solidarity—the state presumes to intervene in the relations of the household without cause. A basic principle of good family policy that recenters the household is that the state ought to *encourage* family formation and good relations among members of the household, *not presume to displace, replace or intervene* in those relations *without warrant*.

The ambiguous complementarity of men and women as they concretely live out their sexual difference and individual distinctiveness in the modern household suggests that even gendered law must merely supply the guardrails, orienting relations to the common goods of the household, and each member in it, but must otherwise have a light touch. In this way, each couple might prudently respond to the “duty of the moment” in their own families—properly sharing in that work which is in parts servile, illiberal, and excellent—and thereby better integrate their home and work for the good of all.

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61. Employees ought to be encouraged to communicate their family needs to their employers well ahead of time, wherever possible—and without fear of reprisal. Just as parenting employees need flexibility in their work lives, employers (especially small businesses) need stability from their employees. Neither employee nor employer appreciates ‘just-in-time scheduling’ wherein either party makes demands on the other with little time to adjust.

62. This policy proposal has been floated by various scholars, including Richard Reeves and Timothy Carney. REEVES, *supra* note 31, at 176 (suggesting “a ‘symmetrical contribution from mothers and fathers at home[]’ . . . can be achieved over a couple decades, rather than a couple years—asynchronous symmetry”); CARNEY, *supra* note 50 at 76 (“Call it puberty leave: a new parent can take any portion of his or her parental leave at any time in the child’s first eighteen years.”).