

ARTICLE

RISE AND FALL OF THE AMERICAN FAMILY WAGE

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This symposium looks at ways to restructure the workplace to be more accommodating toward family life. The social teaching of the Roman Catholic Church actually offers a specific analysis of the tension between workplace and family life in the modern industrial economy and a distinctive and consistent resolution. From the appearance of the encyclical *Rerum Novarum*¹ in 1891 through the encyclical *Laborem Exercens*² in 1981, the preferred solution to this tension has been the delivery of a family-sustaining wage to male workers. This compensation principle is, in the words of Pope Pius XI, a demand of “social justice.” In its successful operation, though, a family-wage regime has placed limits on the labor of women and children and either a repudiation of the “equal pay for equal work” principle or, more commonly, deliberate and extensive job segregation by gender. Leading American analysts and the National Conference of Catholic Bishops long favored the latter approach.

Such a family-wage regime existed in the United States from the 1880’s until the late 1960’s, although its nature changed over time. Prior to 1940, the American system relied primarily on direct wage discrimination in favor of men. After 1940, job segregation by gender—supplemented by new, family-centric social insurance programs—became the primary vehicle for delivering a family wage. The years 1940 to 1965 witnessed both “marriage” and “baby” booms and greater economic equality among Amer-

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1. Pope Leo XIII, *Rerum Novarum* (May 18, 1891), available at http://www.vatican.va/holy_father/leo_xiii/encyclicals/documents/hf_l-iii_enc_15051891_rerum-novarum_en.html.

2. Pope John Paul II, *Laborem Exercens* (Sept. 14, 1981), available at http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_14091981_laborem-exercens_en.html.

ican households. The collapse of the American family wage regime has been associated with mounting tensions between the workplace and home, rising divorce, a retreat from marriage, sharply lower marital fertility and growing inequality. The challenge facing the early twenty-first century is to find policy vehicles that deliver the positive benefits for children of a family-wage system without engaging in systemic gender discrimination.

I. THE CATHOLIC TRADITION

Medieval Roman Catholic theories regarding a "just price" created a basis for Catholic thought on wages. With relatively few day laborers in his era, Thomas Aquinas gave no direct attention to the just wage question.³ He did, however, advance the ideal of fair prices for products of human labor, defined as prices that partook of divine justice and encouraged social harmony.⁴

Early modern moral theologians, including Molina (d. 1600), DeLugo (d. 1660), Lessius (d. 1623), and Bonacina (d. 1631), were the first to consider the circumstances of the property-less worker.⁵ They implied that this worker was owed a wage adequate to sustain his own life and the lives of his wife and children.⁶ Subsequent Catholic writers on moral theology, from St. Alphonsus of Ligouri (d. 1787) to George Crally (d. 1878), held opinions that logically required a familial living wage for male workers as a mandate of justice.⁷

In the mid-nineteenth century, early Christian Democrats such as Frederic Ozanan denounced the vices of individualism and the family-denying attitudes of socialism.⁸ Bishop William Emmanuel von Ketteler, the spiritual force behind the Christian labor movement, urged Catholic workers to press for fair hours and the prohibition of child labor.⁹ Relative to women, Bishop von Ketteler argued that "[r]eligion wants the mother to pass the day at home in order that she may fulfill her high and holy mission towards her husband and her children."¹⁰ By inference, adult men deserved in turn a family-sustaining wage.¹¹

Such views found eager American listeners who also viewed the factories as destroyers of homes and family bonds and saw the labor of women

3. JOHN D. CALLAHAN, *THE CATHOLIC ATTITUDE TOWARD A FAMILIAL MINIMUM WAGE* 8 (1936).

4. *Id.*

5. *Id.* at 16–17.

6. *Id.*

7. JAMES HEALY, *THE JUST WAGE, 1750–1890: A STUDY OF MORALISTS FROM SAINT ALPHONSUS TO LEO XIII* 172, 187, 298, 350–52, 461–62 (1966).

8. JOHN A. RYAN & JOSEPH HUSSLEIN, *THE CHURCH AND LABOR* 10–11 (1920).

9. *Id.* at 45–47.

10. *Id.* at 48.

11. *Id.* at 16–18.

as subversive of the working class.¹² They held that the factories could have one, but only one, worker per family who, in turn, deserved a living family wage.¹³ In 1836, for example, the National Trades Union denounced maternal and child labor, insisting that under such conditions, “the parent, the husband, or the brother is deprived of a sufficient subsistence to support himself and family, when without the auxiliary aid of the female, by his own labor alone he might have supported himself and family in decency and kept his wife or his relative at home.”¹⁴ *Ten Hours Advocate*, a labor publication, editorialized in 1846 that, “we hope the day is not distant when the husband will be able to provide for his wife and family, without sending the former to endure the drudgery of a cotton mill.”¹⁵ As the Philadelphia Trade Union warned its members in the same era:

Oppose [the employment of women] with all your mind and with all your strength, for it will prove our ruin. We must strive to obtain sufficient remuneration for our labor to keep the wives and daughters and sisters of *our people* at home That cormorant capital will have every man, woman and child to toil; but let us exert our faculties to oppose its designs.¹⁶

II. THE PAPAL ENCYCLICALS

Pope Leo XIII’s groundbreaking 1891 social encyclical, *Rerum Novarum*, reflected these themes and implied the justice of a familial living wage. He left the construct bearing certain ambiguities, however.

While acknowledging the value of a free contract between employer and worker, Leo added that “there underlies a dictate of natural justice more imperious and ancient than any bargain between man and man, namely, that wages ought *not* to be insufficient to support a frugal and well-behaved wage-earner.”¹⁷ A few paragraphs earlier, the document had cautioned against the employment of children, and continued:

Women . . . are not suited for certain occupations; a woman is by nature fitted for homework, and it is that which is best adapted at once to preserve her modesty and to promote the good bringing up of children and the well-being of the family.¹⁸

12. ALLAN CARLSON, *THE FAMILY IN AMERICA: SEARCHING FOR SOCIAL HARMONY IN THE INDUSTRIAL AGE* 25–63 (Transaction Publ. 2003) (1993).

13. Allan Carlson, *Gender, Children, and Social Labor: Transcending the “Family Wage” Dilemma*, 52 J. SOC. ISSUES 137, 137–57 (1996).

14. JAMES BOYLE, *THE MINIMUM WAGE AND SYNDICALISM: AN INDEPENDENT SURVEY OF THE TWO LATEST MOVEMENTS AFFECTING AMERICAN LABOR* 73 (1913).

15. *Id.*

16. Ruth Milkman, *Organizing the Sexual Division of Labor: Historical Perspectives on “Women’s Work” and the American Labor Movement*, 10 SOCIALIST REV. 95, 108–09 (1980) (emphasis added) (quoting JOHN B. ANDREWS & W. D. P. BLISS, *HISTORY OF WOMEN IN TRADE UNIONS*, S. DOC. NO. 61-645, at 47 (1911)).

17. Pope Leo XIII, *Rerum Novarum*, *supra* note 1, at No. 45 (emphasis added).

18. *Id.* at No. 42.

Leo also asserted that:

If a workman's wages be sufficient to enable him comfortably to support himself, his wife, and his children, he will find it easy, if he be a sensible man, to practice thrift, and he will not fail, by cutting down expenses, to put by some little savings and thus secure a modest source of future income.¹⁹

Confusion emerged over papal intent. Archbishop Goossens of Malines wrote to the Holy See and asked whether an employer did wrong if he paid a man a wage sufficient for personal maintenance but inadequate for support of a family.²⁰ Replying for Pope Leo XIII, Cardinal Zigliara said that an employer so behaving would not violate justice, but might be acting contrary to charity or "natural righteousness."²¹

American interpreters of the encyclical such as Fr. John A. Ryan²² pressed the matter, arguing for the family wage as a case of commutative justice. As Father Ryan wrote in his 1910 treatise *A Living Wage*:

[T]he laborer has a right to a family Living Wage because this is the only way in which he can exercise his right to the means of maintaining a family, and he has a right to these means because they are an essential condition of normal life.²³

The complications of a family wage gained more attention after World War I. Father Ryan was the chief consultant to the National Conference of Catholic Bishops in the crafting of its 1919 Program of Social Reconstruction.²⁴ In facing the issue of women and work, the Bishops concluded that: (1) as women were displaced from the industries in which they had been recruited during the war, such displacement should bring the least possible hardship; (2) the proportion of women in industry should be kept as low as possible; and (3) women should receive equal pay for equal work with men.²⁵

The latter principle, while superficially in conflict with the prior two, actually resolved a key dilemma facing family wage advocates. If women were paid at lower rates than men for the same work (an approach for which some argued), the most likely result would be that employers seeking to keep costs low would hire more women and fewer men.²⁶ The superior solution, Father Ryan explained, was to accept "equal pay for equal work" but also push for enhanced job segregation by gender.²⁷ The result would be

19. *Id.* at No. 46.

20. JOHN A. RYAN, *A LIVING WAGE: ITS ETHICAL AND ECONOMIC ASPECTS* 111 (1906).

21. *Id.*

22. Fr. Ryan was first a Professor of Ethics and Economics at St. Paul Seminary and later Professor of Moral Theology at the Catholic University of America.

23. RYAN, *supra* note 20, at 118.

24. JOHN A. RYAN, *SOCIAL RECONSTRUCTION* 1 (1920).

25. *Id.* at 41.

26. *Id.* at 43.

27. *Id.* at 42.

a “family wage” for men’s jobs and an “individual” wage for women’s jobs.²⁸ Father Ryan cited, with approval, examples of the process at work:

In the telephone industry, at least in the telephone exchanges, what has happened is that the men have abandoned it, and the wage has gone down to the woman’s level. In other places, where the men are strongly organized, they insist on monopolizing the occupation.²⁹

When Pope Pius XI returned to the wage issue in his 1931 encyclical *Quadragesimo Anno*, he cleared away any ambiguities about the justice of a male-only family wage. “[T]he worker must be paid a wage sufficient to support him and his family,” he wrote.³⁰ Pius acknowledged that on farms, in artisan workshops and in small stores, other family members might contribute some labor.³¹ The abuse of “childhood and exploitation of the limited strength of women,” however, were gross wrongs.³² Mothers focusing on household duties should work in or near their homes.³³ Pius added:

It is an intolerable abuse, *to be abolished at all costs*, for mothers on account of fathers’ low wage to be forced to engage in gainful occupations outside the home to the neglect of their proper cares and duties, especially the training of children. Every effort must therefore be made that fathers of families receive a wage large enough to meet ordinary family needs adequately.³⁴

Pope Pius offered “merited praise” to all who “have tried and tested various ways of adjusting work to family burdens,” so that as these burdens increased, so would their compensation.³⁵

Commentator John Callahan usefully summarized the Papal argument as recognizing the “*per se familial fertility* in human labor, and its familial remuneration by a direct exercise of commutative justice.”³⁶ The Jesuit author Oswald von Nell-Brenning stressed the broad scope of Pius’ teaching:

[I]t will be absolutely necessary to see to it that female labor is kept from the labor market, something that will have to be attained by prudent and clear-sighted measures. Everyone knows that this cannot be accomplished by decree but requires a far-reaching reconstruction of the entire economic system.³⁷

28. *Id.* at 44.

29. *Id.*

30. Pope Pius XI, *Quadragesimo Anno*, No. 71 (Mar. 11, 2007), available at http://www.vatican.va/holy_father/pius_xi/encyclicals/documents/hf_p-xi_enc_19310515_quadragesimo-anno_en.html.

31. *Id.*

32. *Id.*

33. *Id.*

34. *Id.* (emphasis added).

35. *Id.*

36. CALLAHAN, *supra* note 3, at 127.

37. OSWALD VON NELL-BRENNING, *REORGANIZATION OF SOCIAL ECONOMY: THE SOCIAL ENCYCLICAL DEVELOPED AND EXPLAINED* 176 (Bernard W. Dempsey ed., 1936).

III. AUSTRALIAN AND EUROPEAN MODELS

As Pius had hinted, there could be different approaches to delivering a family wage.³⁸ In 1896, the Australian state of Victoria adopted a measure that created wage boards in various industries.³⁹ These quasi-judicial bodies soon spread to other parts of the country.⁴⁰ The Australian system openly rejected the principle of "equal pay for equal work," opting instead for the principle of "equal pay for equal family responsibility."⁴¹ In his 1907 *Harvester Judgment*, commonwealth Justice Henry Bournes Higgins chose a family of approximately five and a daily wage of seven shillings as the measures "necessary to allow the average man to live his life according to Australian standards."⁴² Subsequent wage court decisions settled on a female wage that was fifty-four percent of that paid to men.⁴³ Justice Higgins recognized the potential market problem of low-wage women driving men out of work; like Father Ryan, he saw the solution as job segregation by gender. "[W]here a certain kind of work was recognized as men's work," he wrote, "then women who were employed to do that work should be paid the same wages as the men."⁴⁴ In the "women's trades," however, the lower rate would prevail.⁴⁵

Higgins boasted in 1922 that "[t]he system is now . . . universally accepted as just and proper,"⁴⁶ yet his words belied mounting problems. For example, the "single" standard for women proved to be problematic; between twenty and thirty percent of female workers had children who depended on them for their basic support.⁴⁷ Meanwhile, in the clothing, furniture and boot trades, low-wage women replaced high-wage men. Among bootmakers, the number of women and children employed in 1911 was four times greater than in 1896—the very opposite result intended.⁴⁸

An alternate method of delivering a family wage emerged in France and Belgium with more consistent results. Associations of large families commonly based in Catholic parishes exerted pressure on local and national

38. Pope Pius XI, *supra* note 30, at No. 71.

39. See W.P. Reeves, *The Minimum Wage Law in Victoria and South Australia*, 11 *ECON. J.* 334 (1901).

40. HENRY BOURNES HIGGINS, *A NEW PROVINCE FOR LAW & ORDER: BEING A REVIEW, BY ITS LATE PRESIDENT FOR FOURTEEN YEARS, OF THE AUSTRALIAN COURT OF CONCILIATION AND ARBITRATION* 2 (1922).

41. *Id.* at 6–12.

42. ORWELL DE R. FOENANDER, *TOWARDS INDUSTRIAL PEACE IN AUSTRALIA* 71 (1937); see also GEORGE ANDERSON, *FIXATION OF WAGES IN AUSTRALIA* 187–211 (1929).

43. *Id.* at 85–86.

44. *Id.* at 86.

45. *Id.*

46. HIGGINS, *supra* note 40, at 97.

47. E.M. BURNS, *WAGES AND THE STATE: A COMPARATIVE STUDY OF THE PROBLEMS OF STATE WAGE REGULATION* 335 (1926).

48. PAUL STANLEY COLLIER, *MINIMUM WAGE LEGISLATION IN AUSTRALASIA* 2090–91 (1915).

governments for the support of families. Catholic employers formed study circles to consider the lessons of *Rerum Novarum*. In 1916, the large Joya Engineering Works at Grenoble introduced a family allowance scheme among its workers to recognize the extra burdens carried by men with children.⁴⁹ Two years later, railroad, mining and government workers also came under allowance schemes.⁵⁰ To counter the possibility that some employers would save money by refusing to hire men with families, the government authorized an ingenious system of "district equalization funds."⁵¹ Employers would make a regular contribution to a regional fund determined by the total number of workers they employed, which in turn was distributed as child allowances.⁵² By 1930, these quasi-private funds also provided families with midwives, visiting nurses, vacation centers, birth and breast feeding bonuses, layettes, child care clinics and fresh milk for children.⁵³

IV. THE AMERICAN WAY

American feminists have confessed to bewilderment over the family wage concept. As two remarked several decades ago, "attacking the family wage is a bit like an atheist attacking god [sic] the father: she wants to say that it does not exist, that the false belief that it does has evil consequences and that even if it did exist it would not be a good thing."⁵⁴ Did a family wage regime actually take root in America?

The evidence is strong that it did, although the nature of this regime changed over time. Prior to World War II, it rested on direct forms of wage discrimination in favor of men.⁵⁵ For example, a meta-analysis of over three thousand formal investigations of household income conducted between 1890 and 1939 found that attention in the surveys shifted over time from the economic contribution of all family members to the male's family wage.⁵⁶ Over the same time period, the American Federation of Labor (AFL) represented nearly four out of every five unionized workers.⁵⁷ The craft unions considered the organization of working women "a hopeless endeavor," and they pressed for payment of a family wage in contract settlements.⁵⁸ Pro-

49. D.V. GLASS, *POPULATION: POLICIES AND MOVEMENTS IN EUROPE* 101 (1940).

50. *Id.*

51. *Id.* at 102.

52. *Id.*

53. *Id.* at 166-72; see also JEAN PINTE, *LES ALLOCATIONS FAMILIALES [FAMILY ALLOCATIONS]* (1935) and I ROBERT TALMY, *HISTOIRE DU MOVEMENT FAMILIAL EN FRANCE, 1896-1939 [HISTORY OF THE FAMILY MOVEMENT IN FRANCE, 1896-1939]*, at 90-166 (1962).

54. Michelle Barrett & Mary McIntosh, *The "Family Wage": Some Problems for Socialists and Feminists*, 11 *CAPITAL AND CLASS* 51, 56 (1980).

55. Martha May, *The Historical Problem of the Family Wage: The Ford Motor Company and the Five Dollar Day*, 8 *FEMINIST STUDIES* 399, 403-04 (1982).

56. *Id.*

57. Milkman, *supra* note 16, at 115.

58. *Id.* at 109.

gressive reformers agreed on the same ideal.⁵⁹ For example, the United Mine Workers made its wage case before the U.S. Bituminous Coal Commission in 1919 on the “family of five” standard, and the union barred women from membership.⁶⁰ At its 1931 Convention, the AFL recognized that “married women owed primary obligation to the home” and urged that “preference of employment [go] to those upon whom family or dependency rests.”⁶¹ A survey by the National Education Association analyzing fifteen hundred school districts found that seventy-seven percent refused to hire married women and sixty-three percent dismissed female teachers if they married.⁶²

Important non-union shops also adopted the family wage. In 1914, Henry Ford announced that he was doubling the minimum rate paid to “[all] married men living with and taking good care of their families.”⁶³ He called it “bad morals to go back to the old market rate of paying.”⁶⁴ The worker was not just an individual; he was a “householder.” Ford explained that “[t]he man does the work in the shop, but his wife does the work in the home. The shop must pay them both.”⁶⁵ This was thought to forestall “the hideous prospect of little children and their mothers being forced out to work.”⁶⁶

Social policies of the New Deal during the 1930s further reinforced this version of the family wage. Catholic social theory played a direct role in this development through the person of Monsignor John Ryan, who served on the key Advisory Committee that crafted the Social Security Act of 1935.⁶⁷ At the U.S. Children’s Bureau, Chief Katherine Lenroot underscored that “the primary essential of child welfare” was “a living wage for the father.”⁶⁸ At the U.S. Women’s Bureau, Director Mary Anderson emphasized that the problems of women’s wages and working conditions “could be taken care of if the provider for the family got sufficient wages. Then married women would not be obliged to go to work.”⁶⁹ Feminist historians concur that “[t]he New Deal assumed that men paid for their families while women raised them,” and that children’s welfare required “a

59. GWENDOLYN MINK, *THE WAGES OF MOTHERHOOD: INEQUALITY IN THE WELFARE STATE, 1917–1942*, at 44–49 (1995).

60. PHILIP S. FONER, *WOMEN AND THE AMERICAN LABOR MOVEMENT: FROM WORLD WAR I TO THE PRESENT* 137 (1980).

61. JAMES J. KENNEALLY, *WOMEN AND AMERICAN TRADE UNIONS* 152 (1978).

62. *Id.*

63. HENRY FORD, *MY LIFE AND WORK* 127 (1922).

64. *Id.* at 116.

65. *Id.* at 123.

66. *Id.*

67. See generally RYAN, *supra* note 20.

68. Katharine F. Lenroot, *Child Welfare 1930–40*, 212 *ANNALS AM. ACAD. POL. & SOC. SCI.* 1, 1 (1940).

69. MARY ANDERSON, *WOMAN AT WORK: THE AUTOBIOGRAPHY OF MARY ANDERSON* 156–57 (Mary N. Winslow, ed., 1951).

competent domestic mother [and] ‘a living wage for the father.’”⁷⁰ Every significant New Deal program—from the National Industrial Recovery Act of 1933 to the Social Security Amendments of 1939—rested on the “family wage” principle.⁷¹

The United States entry into World War II inaugurated an end to direct wage discrimination. In February 1942, the National War Production Board proclaimed the “‘immediate extension’” of industrial defense training to women on a basis of equality with men.⁷² The following November, the National War Labor Board issued General Order No. 16, which authorized defense contractors to increase wages for women who were being paid less than men “for comparable quality and quantity of work on the same or similar operations.”⁷³ Over two thousand employers reported making such adjustments, pointing to both the extent of discrimination in favor of men before the war and the consequences of the shift in federal policy.⁷⁴

Accordingly, a family wage based on direct favoritism of men was rare by the late 1940s. Wage investigations during the 1950s found no evidence “that employer discrimination [was] a major direct influence upon male and female differentials in average hourly earnings.”⁷⁵ The proportion of adult women with earned incomes actually grew from thirty-nine percent in 1947 to sixty-one percent in 1966.⁷⁶

Despite these developments, the wage gap between women and men expanded. In 1939, median female earnings were 59.29 percent of male earnings; by 1966, the figure fell to 53.66 percent, which is curiously close to the early twentieth-century Australian wage court figure of fifty-four percent.⁷⁷ Although direct wage discrimination against women nearly vanished, another factor more than compensated for this change: job segregation by gender. Using 1959–1960 data, Victor Fuchs concluded that *most* of the forty-percentage-point difference between male and female earnings could be explained by the different employment roles ascribed to women and men.⁷⁸

Economist Vernon Clover provided a detailed analysis of the structure of the labor market in the 1945–1965 period.⁷⁹ While noting that a slightly

70. MINK, *supra* note 59, at 151, 125 (quoting Lenroot, *supra* note 68, at 1).

71. ALLAN CARLSON, *THE “AMERICAN WAY”: FAMILY AND COMMUNITY IN THE SHAPING OF THE AMERICAN IDENTITY* 64–75 (2003).

72. FONER, *supra* note 60, at 348.

73. WALTER FOGEL, *THE EQUAL PAY ACT: IMPLICATIONS FOR COMPARABLE WORTH* 8 (1984).

74. *Id.* at 14.

75. VICTOR R. FUCHS, *Differences in Hourly Earnings Between Men and Women*, 94 MONTHLY LAB. REV. 9, 14 (1971).

76. VERNON T. CLOVER, *CHANGES IN DIFFERENCES IN EARNINGS AND OCCUPATIONAL STATUS OF MEN AND WOMEN, 1947–1967*, at 28 tbl.18 (1970).

77. Fuchs, *supra* note 75, at 9–13.

78. *Id.* at 14.

79. CLOVER, *supra* note 76, at 4.

lower proportion of employed women worked full time in 1965 as compared to 1950, the primary cause of the widening wage gap was the crowding of women into employment categories that were over ninety percent female. These included file clerks, key punch operators, secretaries, stenographers and typists.⁸⁰ Meanwhile, women lost ground in occupational groups that were over ninety-five percent male, such as attorneys, auditors, chemists, engineers and draftsmen.⁸¹ Not by coincidence, of the thirteen occupational groups surveyed, clerical workers enjoyed the smallest increase in average salary during the 1950s while chemists and chief accountants recorded the highest.⁸²

The reality of the American Family Wage during the second half of the twentieth century can be visualized by using data on the income of married-couple households provided by the U.S. Census Bureau and calculating the ratio of those with wives in the labor force to those with wives not employed:

$$R_F = \frac{I_2}{I_1}$$

R_F = Family Wage Ratio;

I_2 = Median Family Income, Wife in Paid Labor Force;

I_1 = Median Family Income, Wife Not in Paid Labor Force.⁸³

This simple ratio proves sensitive to a number of aggregated influences: the impact of job segregation by gender on household income, the relative degree of career commitment by men and women, the effects of protective legislation, the influence of seniority, and the relative use of part-time work. In a pure "family wage economy," this ratio would tend toward (but never reach) 1.00 as law and custom reinforced a substantially higher net wage for the male breadwinner and marginal compensation for the married woman. In an economy of pure gender equality, this ratio would tend toward 2.0 as the man and the woman in the average marriage approached complete market equality, and the one-income couple grew progressively disadvantaged. The trend of this ratio for the United States between 1951 and 2003 is presented in Graph A (page 572).

Graph A shows a fairly stable ratio between 1951 and 1969, varying between 1.25 and 1.31, and reaching the lower figure in 1958 and 1960. The incentives of this family wage regime were associated with a record-high marriage rate, record-low average age for first marriages (20.1 for wo-

80. *Id.* at 36 tbl.C.

81. *Id.*

82. *Id.* at 37 tbl "Percent Increases in Average Salaries Between 1961 and 1967."

83. CENSUS BUREAU, U.S. DEP'T OF COMMERCE, CURRENT POPULATION REPORTS: MEDIAN INCOME OF FAMILIES BY TYPE OF FAMILY IN CURRENT AND CONSTANT (2004) DOLLARS: 1947 TO 2004, at tbl.680 (2004).

men and 22.5 for men in 1956), and the legendary “baby boom.”⁸⁴ Marital fertility rose by seventy-five percent and, among college-educated women, fertility nearly doubled.⁸⁵ Moreover, the GINI index of inequality fell steadily during these years, meaning that American households grew more equal. Specifically, the middle class grew while the ranks of the poor and very rich shrank.⁸⁶ This was the expected result of family-wage-earning men being married to lower-earning or non-wage-earning women.

The period from 1970 to 1982, however, revealed a fairly steady rise in the family wage ratio from 1.31 to 1.42. Thereafter, the increase accelerated, reaching 1.73 in 2000 and leaping to 1.82 three years later. It is safe to conclude that a relatively strong and stable family wage regime, clearly evident in the 1950s and existing as late as 1969, had disappeared by the early twenty-first century.

V. END OF AN ERA

What caused this rapid change? To begin, the historic opposition of labor unions to wage equality, still evident in the early 1960s, had collapsed not ten years later. While the Equal Pay Act of 1963 received formal union support, the proposed Equal Rights Amendment (ERA) to the U.S. Constitution continued to draw scorn from union leaders.⁸⁷ They correctly saw the ERA as a direct legal threat to the mix of seniority, apprenticeship and wage preferences for the male worker.⁸⁸ By 1968, however, the United Auto Workers (UAW) played an instrumental role in founding the National Organization for Women, who pledged to take action “to bring women into full partnership in the mainstream of American society now, exercising all of the privileges and responsibilities thereof in truly equal partnership with men.”⁸⁹ As late as 1972, the AFL-CIO continued to oppose the ERA.⁹⁰ The next year, after stormy debate, the organization endorsed the amendment as “a symbol of commitment to equal opportunities for women and equal status for women.”⁹¹ With this action, the 150 year-long effort by American labor unions to create and defend a family-wage regime premised on gender distinctions came to an end.

84. CENSUS BUREAU, U.S. DEP'T OF COMMERCE, HISTORICAL STATISTICS OF THE UNITED STATES: COLONIAL TIMES TO 1970, at 19 tbl.Series A 158–59 (1975).

85. *Id.* at 10 tbl.Series B 36–41.

86. CENSUS BUREAU, U.S. DEP'T OF COMMERCE, HOUSING AND HOUSEHOLD ECONOMIC STATISTICS DIVISION, at tbl.IE–6 (2001) [hereinafter HOUSING AND HOUSEHOLD ECONOMIC STATISTICS].

87. KENNEALLY, *supra* note 61, at 184.

88. *Id.* at 181–82.

89. CAROLINE DAVIS, UNITED AUTO. WORKERS WOMEN'S DEP'T REP.: 1968 CONSTITUTIONAL CONVENTION 9 (1968).

90. KENNEALLY, *supra* note 61, at 191–99.

91. *Id.* at 199.

A second cause for the disappearance of the prevailing family-wage system was the addition of the word "sex" to Title VII of the Civil Rights Act of 1964. As originally proposed by the Lyndon B. Johnson administration, this title would have prohibited employers from segregating or classifying employees only "on the basis of race, color, religion or national origin."⁹² Yet, during floor debate in the U.S. House of Representatives, "Dixiecrat" Howard Smith of Virginia proposed an amendment to the bill adding the word "sex" to the list of prohibited discriminations.⁹³ While his purpose was murky and probably malicious (i.e., virtually all Democrats who favored racial segregation supported the measure),⁹⁴ it won approval in a 168–133 vote after unusual and uncertain debate. The House amendment survived a conference with the Senate, which never did debate the issue or purpose of placing "sex" in Title VII, and this change became law.⁹⁵

At first, the impact of this measure was unclear. Then, in 1967, President Johnson issued Executive Order 11375, which prohibited federal contractors from discrimination in employment on the basis of sex and mandated "affirmative," "result-oriented" measures to eliminate job segregation by gender.⁹⁶ Between 1968 and 1971, the Equal Employment Opportunities Commission (EEOC) "converted Title VII into a magna carta for female workers, grafting to it a set of rules and regulations that certainly could not have passed Congress in 1964, and perhaps not a decade later, either."⁹⁷ In 1969, the EEOC struck down all state laws giving special protection in factories and offices to women, arguing that they had "ceased to be relevant to our technology or to the expanding role of the female worker in our economy."⁹⁸ EEOC rulings on sex-specific hiring directly undercut job segregation by gender.⁹⁹ The consequences were great. One investigation found that in the absence of enforcement of Title VII, "the male/female earnings gap would not have remained constant, but would have increased, between 1967 and 1974."¹⁰⁰ Instead, EEOC efforts *directly* narrowed the male-female earnings differential during these years by fourteen percent in the private sector, two percent in the governmental sector and seven percent

92. Paul Adam Blanchard, *Insert the Word "Sex"—How Segregationists Handed Feminists a 1964 "Civil Rights" Victory Against the Family*, 12 *FAMILY IN AM.* 1, 1 (1998).

93. *Id.* at 1–2.

94. CLAUDIA GOLDIN, *UNDERSTANDING THE GENDER GAP: AN ECONOMIC HISTORY OF AMERICAN WOMEN 201–02* (Robert W. Fogel & Clayne L. Pope eds., 1990).

95. Blanchard, *supra* note 92, at 7–8.

96. Donald Allen Robinson, *Two Movements in Pursuit of Equal Employment Opportunity*, 4 *SIGNS* 413, 427 (1979).

97. *Id.* (citing Harvard Law Review Association, *Developments in the Law: Employment Discrimination and Title VII of the Civil Rights Act of 1964*, 84 *HARV. L. REV.* 1166, 1195 (1971)).

98. J. E. Buckley, *Equal Pay in America*, in *EQUAL PAY FOR WOMEN* 35, 47 (Barrie O. Pettman ed., Hemisphere Publ'g 1977) (1975).

99. Andrea H. Beller, *Title VII and the Male/Female Earnings Gap: An Economic Analysis*, 1 *HARV. WOMEN'S L. J.* 157, 157–73 (1978).

100. *Id.* at 160.

in the economy as a whole.¹⁰¹ Another analyst calculated a narrowing of the "gender gap" in income from .617 in 1971 to .700 in 1987.¹⁰²

A major effect, as intended, was to open the male dominated professions and industrial jobs to women. The gains made were particularly strong for women enjoying educational and other advantages. Results proved especially dramatic in the fields of medicine¹⁰³ and law.¹⁰⁴ In addition, many men were probably happy to be relieved of the "breadwinner" role and its onerous financial expectations.¹⁰⁵

VI. EQUAL WAGES AND FAMILY DECLINE

Other familial consequences followed from this dramatic weakening of the family wage. First, family households with only a single, male, wage earner experienced a decline in real income due, predictably, to the effective expansion in labor supply achieved through the elimination of gender barriers. Using constant dollars,¹⁰⁶ the median income of married-couple families whose wives were not in the paid labor force was \$34,956 in 1973 and \$30,218 in 1993, a decline of fourteen percent.¹⁰⁷

Second, the "terms of trade" turned against single-earner families. Simply put, single-income families found themselves at a mounting competitive disadvantage relative to two-income families in the acquisition of housing, automobiles and major appliances. In the housing market, the ratio of the median price paid for a single-family house to the median annual family income¹⁰⁸ rose thirty-eight percent (from 1.91 in 1970 to 2.63 in 1988) for families with working wives; for families with wives not in the paid labor force, this ratio rose 64 percent (2.52 to 4.13).¹⁰⁹

Third, these changes were associated with the declining well-being of children. Work by the Annie E. Casey Foundation showed a close relationship between the rise in the percentage of young men ages twenty-five to thirty-four earning less than a "poverty line" wage from thirteen percent in

101. *Id.* at 169.

102. GOLDIN, *supra* note 94, at 60-61.

103. THOMAS NEVILLE BONNER, TO THE ENDS OF THE EARTH: WOMEN'S SEARCH FOR EDUCATION IN MEDICINE 168 (1992).

104. See DATABOOK ON WOMEN IN LAW SCHOOL AND IN THE LEGAL PROFESSION 48-51 (2003).

105. See John Stoltenberg, *Healing from Manhood: A Radical Meditation on the Movement from Gender Identity to Moral Identity*, in FEMINISM AND MEN: RECONSTRUCTING GENDER RELATIONS 146, 146-156 (Steven P. Schacht & Doris W. Ewing eds., 1998); Riane Eisler, *Sex, Gender, and Transformation: From Scoring to Caring*, in FEMINISM AND MEN: RECONSTRUCTING GENDER RELATIONS, *supra* at 237, 245-249 (1998).

106. Dollars measured in 1993.

107. CENSUS BUREAU, U.S. DEP'T OF COMMERCE, STATISTICAL ABSTRACT OF THE UNITED STATES tbl.738 (1995).

108. R = Median Price Paid for New Single Family House/ Median Annual Family Income.

109. CENSUS BUREAU, U.S. DEP'T OF COMMERCE, STATISTICAL ABSTRACT OF THE UNITED STATES tbls.732, 1264 (1990).

1969 to thirty-two percent in 1993 and the increased percentage of children living in female-headed households from eleven to twenty-three percent over the same years.¹¹⁰ On the other hand, families with wives not in the labor force¹¹¹ were *more likely* to have dependent children at home and were, on average, *larger* than families whose wives were in the full-time paid labor force. Both factors were related to poverty status.¹¹²

A fourth consequence of the disappearance of the family-wage system was that American families became fully industrialized or commodified for the first time. As married women with children moved into the market labor force, there was a sharp decline in the “production of immediate use-values within the family.”¹¹³ Gardening, food preparation, child care and other residual forms of home production surrendered to market-provided services, which meant that “the material basis of the individual family [was] disappear[ing] in the sphere of consumption,” as it had previously in the sphere of production.”¹¹⁴ Indeed, “the universalization of wage labor” lay behind this era’s expansion of the service sector, accelerated decline of the family as an autonomous economic unit, and disappearance of other forms of social labor more compatible with family bonds.¹¹⁵

Fifth, there appears to have been broad social consequences. As economist Gary Becker demonstrated, marriages premised on economic specialization (one spouse in the labor market and the other engaged in home production) exhibited more internal strength than marriages resting on economic equality.¹¹⁶ With the economic rationale of marriage sharply reduced, the post-family-wage era has been characterized by rising divorce, a surging number of out-of-wedlock births, declining marriage rates, later marriages, more permanent singlehood and cohabitation, and growing recognition of work-family conflicts.¹¹⁷

Finally, American households have grown more unequal in the post-family-wage era. The GINI Index of household income inequality for the U.S. began climbing again precisely in 1970. Over the next thirty-five years, it rose by twenty percent.¹¹⁸ One cause may be the growing probability of marriage between economic equals (e.g., a physician mar-

110. Steven A. Holmes, *Low Wage Fathers and the Welfare Debate*, N.Y. TIMES, Apr. 25, 1995, at A2.

111. Still numbering 21.5 million in 1991. *Id.*

112. MICHAEL NOVAK ET AL., *THE NEW CONSENSUS ON FAMILY AND WELFARE: A COMMUNITY OF SELF-RELIANCE* 43–52 (1987).

113. ERNST MANDEL, *LATE CAPITALISM* 391 (Joris De Bres trans., 1978).

114. *Id.*

115. See Av Lasse Cornell & Jan Ch Karlsson, *Arbetets Sociala Former*, 4 HISTORISK TIDSKRIFT 393, 393–415 (1983).

116. GARY S. BECKER, *A TREATISE ON THE FAMILY* 14–37 (1981).

117. *THE FAMILY PORTRAIT: A COMPILATION OF DATA, RESEARCH AND PUBLIC OPINION ON THE FAMILY* 59–124 (Bridget Maher ed., 2002).

118. *HOUSING AND HOUSEHOLD ECONOMIC STATISTICS*, *supra* note 86.

rying another physician), which exaggerates household income differentials.

VII. LABOREM EXERCENS

Fifty years after the appearance of *Quadragesimo Anno*, Pope John Paul II issued his own encyclical on work issues entitled *Laborem Exercens* ("On Human Labor").¹¹⁹ He emphasized in this 1981 document the necessary linkage of work and family formation, with the latter being termed a natural right and something to which man is called.¹²⁰ He also asserted that the just wage for the work of an adult responsible for a family was that "which will suffice for establishing and properly maintaining a family and for providing security for its future."¹²¹ John Paul indicated that such compensation could be made through a pure family wage or through some combination of social policy measures such as family allowances or maternity grants and bonuses. However achieved, such regimes served as "a concrete means of verifying the justice of the whole socio-economic system" involved.¹²²

Compared to *Quadragesimo Anno*, the 1981 encyclical might be judged to have employed more gender-neutral language in its discussion of wages. John Paul II's *The Apostolic Exhortation on the Family*, issued three months later, reiterated the gendered basis of a just wage, however.¹²³ Citing "the fundamental bond between work and the family," the Pope acknowledged the complications raised by the contemporary women's movement.¹²⁴ All the same, consistent with the social encyclicals of Leo XIII and Pius XI, he argued that:

[S]ociety must be structured in such a way that wives and mothers are not in practice compelled to work outside the home, and that their families can live and prosper in a dignified way even when they themselves devote their full time to their own family.¹²⁵

Most nations in Europe have ignored this call, turning instead to the Swedish model of family policy that condemns gender distinctions and combines universal adult employment with parental leave, day-care subvention, and the socialization of most other parental functions.¹²⁶ American

119. Pope John Paul II, *Laborem Exercens*, *supra* note 2.

120. *Id.* at No. 10.

121. *Id.* at No. 19.

122. *Id.*

123. Pope John Paul II, *The Apostolic Exhortation on the Family*, in 11 ORIGINS: NC DOCUMENTARY SERVICE 437, 445 (1981).

124. *Id.* at 445.

125. *Id.*

126. Allan Carlson, *Sweden and the Failure of European Family Policy*, 42 Soc'y 41, 41-46 (2005).

policy is more muddled but, on balance, also tilts toward discouraging the full-time mother at home.¹²⁷

The era of the family wage resting on systemic gender distinctions is over, at least for any discernable future. As John Paul II implied in *Laborem Exercens*, the Catholic position is open to alternatives that also protect the economic integrity of the family and the position of the mother in the home.¹²⁸ Building alternative forms of family support in this new century and under exacting legal requirements of gender equality is the challenge facing social policy engineers. My personal preference is to use both payroll and income tax policies to shower tax relief on households rearing children and provide maximum flexibility in childcare choices, including full-time care of preschoolers at home. There is evidence that such targeted tax relief has a significant positive effect on marital fertility.¹²⁹ I also advocate measures that may make it easier to engage in market labor in the home.

Senator Sam Brownback (R-KS) and Representative Lee Terry (R-NB) recently introduced the Parents Tax Relief Act of 2007, which addresses all of these goals.¹³⁰ It would raise the personal income tax exemption to \$5,000, make permanent the \$1,000 per child tax credit and index the latter to inflation. It would extend the Dependent Care Tax Credit, currently available only to purchasers of day care, to families caring for preschoolers full time in their homes. The bill would eliminate the remaining marriage penalties of the federal income tax. It would grant Social Security employment credit to stay-at-home parents. The measure would also provide a tax credit to employers launching telecommuting efforts and create a simple standard deduction for a home office.¹³¹ Such approaches hold real promise for easing the growing tensions between workplace and home in this new century.

127. BRIAN C. ROBERTSON, DAY CARE DECEPTION: WHAT THE CHILD CARE ESTABLISHMENT ISN'T TELLING US 140-169 (2003).

128. Pope John Paul II, *supra* note 123, at No. 19.

129. Leslie A. Whittington, *Taxes and the Family: The Impact of the Tax Exemption for Dependents on Marital Fertility*, 29 DEMOGRAPHY 215, 220-221 (1992); Leslie A. Whittington et al., *Fertility and the Personal Exemption: Implicit Pronatalist Policy in the United States*, 80 AM. ECON. REV. 545, 545-56 (1990).

130. Parents' Tax Relief Act of 2007, S. 816, 110th Cong. (2007), available at <http://www.govtrack.us/congress/billtext.xpd?bill=s110-816>; Parents' Tax Relief Act of 2007, H.R. 1421, 110th Cong. (2007), available at <http://www.govtrack.us/congress/billtext.xpd?bill=h110-1421>.

131. *Id.*

GRAPH A

$$\text{U.S. Family Wage Ratio} = \frac{\text{Median Family Income, Wife in Paid Labor Force}}{\text{Median Family Income, Wife Not in Paid Labor Force}}$$

