

BEYOND "HAVING IT ALL"

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I. INTRODUCTION

The title of this panel is "Rational Choices." We are to consider the proposition that women are less well off than men because they rationally choose different life goals, and rationally pursue different strategies for achieving those goals. The starting point for the discussion is the observation that women earn less money than men, with income equality as the implicit touchstone for the desirability of policies, personal or public. Indeed, the goal of income equality is so widely accepted that even the organizers of this panel, hardly radical feminists, assumed its validity.

Of course, defining one's well-being in terms of one's income is not self-evidently correct. In fact, it is extremely problematic to argue that one's income is an accurate measure of one's wealth, even on strictly economic grounds. The overall claim is even more problematic if we consider, as we ought, the questions of "What is the good life?" or "What is the life well-lived?"—the philosophical questions that have engaged the attention and efforts of the deepest and most thoughtful of us since time immemorial. Indeed, it is only in the late twentieth century, when people have become obsessed with money, that anyone would even consider the question of rationality in terms of one's success in earning and accumulating money.

In this paper, I want to move the topic of rationality into a somewhat different arena. Is the strategy of the women's movement a rational choice for improving the well-being of women, defined by these broader criteria? And if not, what alternatives do we have? I want to present some alternative visions.

II. THE ISSUES WOMEN FACE

The women's movement has tried to deal with two different but related trends: first, the entry of married women into the labor force, and second, the insecurity of women within marriages. The trend toward increased labor force participation pre-

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dates the women's movement, as ordinarily defined.¹ The increase in the labor force participation of married women dates from the beginning of the twentieth century.² The increase in the level of divorces can be observed as early as 1970.³ These two trends may be related in the following way: because of the increased probability of divorce, women rationally chose to commit themselves more fully to labor market participation than they otherwise would have. If women can no longer look forward to financial security within marriage, a rational response certainly might be to plan for financial independence.⁴ According to this view, the increase in the divorce rate is a cause of increased labor force participation rather than the other way around. To use the language of Carol Rose's provocative article, a rational strategy for women would be to pursue credible alternatives to staying within a relationship which may prove exploitive.⁵

At the same time, an increase in a woman's financial security might lead her to be less committed to her marriage. Whatever other benefits she may receive from her married life, a woman with the human capital to support herself financially needs her husband less than she otherwise would. This effect has been noted and described as the "disposable man" or "disposable father" syndrome.⁶

Of course, there is much more that could be said about the relationship between the demographic trends of increased labor force activity and increased marital instability. Many within the women's movement have said a great deal about how women ought to deal with these two issues. How should we behave inside the labor force, and what should our goals there be? How should we interact with our husbands; indeed, what kinds of husbands should we seek? It will not be possible to do full justice to these important topics. I will address one of the strategies that has been suggested to women of my generation. I will show how it

1. We might date the beginning of the women's movement from the publication of BETTY FRIEDAN, *THE FEMININE MYSTIQUE* (1963).

2. CLAUDIA D. GOLDIN, *UNDERSTANDING THE GENDER GAP: AN ECONOMIC HISTORY OF AMERICAN WOMEN* 16-17, Table 2.1 (1990).

3. The divorce rate per thousand population in 1965 was 2.5; by 1970 it had risen to 3.5. *STATISTICAL ABSTRACT OF THE UNITED STATES* TABLE 126 (110th ed. 1990).

4. See F. Carolyn Graglia, *The Housewife as Pariah*, 18 *HARV. J.L. & PUB. POL'Y* 509 (1995).

5. Carol M. Rose, *Women and Property: Gaining Ground and Losing Ground*, 78 *VA. L. REV.* 421, 454-55 (1992).

6. Cf. Ellen Goodman, *The New Fatherless*, *THE WASHINGTON POST*, June 14, 1983, at A19.

bears upon both of the issues I have outlined, and why I think the strategy is flawed. I will then present two alternative strategies for consideration.

III. THE MYTH OF HAVING IT ALL

Consider the slogan that was for many of us, both a personal goal, and a political rallying-cry: "Having It All." When stated as a goal, the idea of "having it all" is frankly impossible. This goal assumes that women do not have to face constraints, that there are no choices that exclude other choices. In economic jargon, this objective assumes that women have no budget constraints and face no opportunity costs.

But plainly, women, like men, must make choices. No one can "have it all." The attempt to achieve this objective has made frazzled wrecks out of many women. We scurry from home to work to the day care center and back home, wondering why there is never enough time to do everything, why we are always exhausted, why we are always snapping at someone, and why our lives lack contentment and serenity. The fact is, we are frazzled because we are not facing the reality of our own finiteness. We refuse to accept the fact that making meaningful choices involves exclusion of other options. We have adopted an ideology that requires us to be perpetually overcommitted.

"But men get to have it all," some women might respond. "Why don't men have to choose between family and career?" We arouse ourselves into a self-righteous anger as we pose these rhetorical questions. Thus, "having it all" was for many of us a political agenda as well as a personal goal. As we have convinced ourselves that we should not have to face choices, that we should be able to have everything we want, we have looked around for someone to blame when the inevitable reality sets in. Usually, we blame a man, or men generally. "If only my husband would do more around the house, if only the government would subsidize child care, if only men were not prejudiced against me, then I could have it all."

The fact is that men do have to face choices as well. A man who chooses to dedicate himself to his career may be married and may father children, but if he spends eighty hours a week at work, he has a family only in the most perfunctory sense. Anyone who believes that it is costless for a man to make his job the most important priority in his life is very much mistaken. The proposi-

tion that this choice is costless is only valid in a world in which the only objectives are money, status and power. Such a conclusion would be unthinkable in a sane, human world.

As an aside, let me take note of the fact that many law students will be offered jobs that will require them to spend eighty hours a week in the office. It is perfectly obvious that such a job is a choice that excludes other choices. In particular, one cannot build a lasting, loving relationship with another person in the time left over from an eighty-hour-a-week job. The only thing one would be able to do is use another person. It is a serious wrong to use another person.⁷ Despite this simple counsel from common sense morality, we might nevertheless convince ourselves that we are entitled to have a relationship, even when we are unwilling to devote any time to learn about, care for, and give to, the other person.

If we enter into married life with this thought, we will create a disaster for ourselves, for we will seek out partners who will allow us to use them. Perhaps we will choose someone without enough strength of character to protest being used. Perhaps we will choose someone as ambitious as ourselves, so that they do not object to being used. In short, we will tend to choose someone who will not bother us too much, so that we can devote ourselves to what are plainly our highest priorities, namely, our jobs.

When the marriage dissolves, we have no right to be shocked. The marriage did not end; there was never a marriage there in the first place. The relationship dissolves when that truth can be evaded no longer. Some law students will choose these all-encompassing jobs. I would advise those who are not already in solidly committed relationships, to remain celibate. It does not matter whether one is male or female, an eighty-hour-a-week job is a choice that excludes many other choices.

IV. ALTERNATIVE VISIONS

A. *The Aristotelian Vision*

If "Having it All" does not help us to make sense out of our new experiences in the labor market, what might be more helpful? I offer "Live a Balanced Life" as one possibility. This slogan

7. See KAROL WOJTYLA (POPE JOHN PAUL II), *LOVE AND RESPONSIBILITY* 21-30 (1993, originally published in 1960). Pope John Paul II develops the "personalistic norm" around the proposition that a person may not be an object for use.

has several virtues. First, it captures what is probably the best intent of the desire to "have it all." Second, it is a slogan that can be applied to men as readily as to women. And finally, living a balanced life is a goal that actually can be attained. It calls attention to the fact that we are finite and that we must make choices. It invites us to make our choices thoughtfully. Moreover, our success at living a balanced life is something that only we can judge. It is, by its nature, an objective that focuses on the interior life, not simply on the visible externals.

"Having it all," in practice, means having a career, a marriage, and children. These are readily observable by other people. I think that all too often, women judge themselves and others by the "Super-Mom" criterion. Many women of my generation have suffered unnecessarily from these judgments. Some women have come to feel inadequate because they choose full-time motherhood.⁸ And other women feel inadequate because they are unable to do the impossible tasks they have assigned themselves.⁹

Living a balanced life is not something that another person can observe. Others can tell well enough if someone is way off the mark: someone like the eighty-hour-a-week lawyer, for instance, clearly fails any reasonable balance test. For the most part, this is an entirely interior judgment, and in my opinion, that is a good thing. For ultimately, it is not anyone else's place to determine whether another person is a success or a failure.

Had women pursued this strategy, the women's movement would have had an Aristotelian ring to it, as men and women together tried to steer a moderate course through life. We could view the different tendencies among men and women as opportunities for us to moderate each other's excesses. Men could encourage the women in their lives to be more aggressive with respect to the outside world when that would be appropriate or necessary for their best interests. Women can remind the men in their lives that winning is not everything, that the life of the home and the heart is precious and to be cherished, and that they need to admit their mistakes and their weaknesses from time to time in the interest of maintaining friendships and intimacy.

8. Others have resisted these feelings. See, e.g., Graglia, *supra* note 4.

9. See Orania Papazoglou, *Despising Our Mothers, Despising Ourselves*, *FIRST THINGS*, Jan. 1992 at 11, 11-19.

The Aristotelian vision of the ideal marriage is a friendship.¹⁰ The modern notion of spousal equality suggests that justice should be the guiding principle within the marriage. But Aristotle reminds us that a friendship has more than "justice" within it. And we might add, that a true marriage needs more than justice. A marriage, like a friendship, is more than a contract.¹¹

B. *The Judeo-Christian Vision*

Another alternative vision is: "Love Your Neighbor as Yourself."¹² This too, has much to recommend. First of all, loving your neighbor as yourself requires a healthy self-esteem. At the same time, we are invited to moderate this necessary self-esteem, because our attention is immediately directed to the fact that we are not the only persons in the universe. It is a self-esteem that is directed outside ourselves. It is a self-esteem that is not self-centered.

Like living a balanced life, loving one's neighbor as one's self is a program that can be applied as readily to men as it is to women. What kind of world would we be living in, what kind of marriages would we have, if our husbands loved us as they love themselves? What kind of world could we create, what kind of families could we build, if we loved our husbands as we love ourselves? There is, I think, some asymmetry in these rhetorical questions. The thought experiment, "What if my husband loved me as he loves himself?" leads in a different direction than the thought experiment, "What if I loved my husband as I love myself?" This in turn might be interpreted as continuing evidence of the deep cultural chasm between men and women. It could, however, lead us to a quite different conclusion.

Marriage could be viewed as an institution for the mutual growth and education of the partners. According to this vision, the relationship between a husband and wife should lead each of them to greater maturity, depth and perfection. The differences between men and women do not signify the inferiority of one person to the other, but instead illustrate the incompleteness of each person in comparison with the perfection of God. No one gloats over his or her spouse's failings, because each person has failings of their own. Since the job of personal growth is a full-

10. See James V. Schall, *ARISTOTLE ON FRIENDSHIP*, 65 *CLASSICAL BULL.* 86 (1989).

11. *Id.*

12. Mark 12:31; see Milton Steinberg, *BASIC JUDAISM*, 77.

time one, no time is left for focusing on the weaknesses of others. Moreover, we would avoid being judgmental toward our partner, who is in a unique position to help us in our own journey.

The principle of indissoluble marriage is most important in this context. Often, our wish to mask our own faults is quite powerful, as is our capacity for self-deception. When our partners point us toward areas of potential growth, we often resist listening to their advice. Thus we may run from the relationship at the exact moment when our partner can be of the deepest and most lasting help to us.

V. COMMENT ON CAROL ROSE

Economists have come to appreciate the fact that the activity that takes place inside the business firm is quite distinct from the activity that takes place among firms in the market place as a whole.¹³ Contracts are structured differently inside firms than across firms, pricing mechanisms are used differently, monitoring is done differently, and so forth. It seems to be equally true that the activities that take place between men and women inside the household are quite different, and need to be recognized as distinct from, the activities that take place between men and women in society as a whole.

As Professor Rose notes, there are advantages to both cooperation and retaliation.¹⁴ What Professor Rose does not explicitly note, however, is that each household can benefit from having the ability to play both cooperative and non-cooperative strategies. That is, the household can benefit from having one person who attends to the construction and maintenance of lasting, trusting relationships, both inside the household and outside it. At the same time, the household sometimes needs to make credible threats to the outside world, or to enforce the rules of "tit-for-tat." In short, cooperation is beneficial, but it does not follow that the household, or that any individual ought to cooperate in all circumstances and with all possible players. The household needs both the capacity to cooperate and to retaliate.

It may be that Professor Rose's scenario of the cooperative wife and the rational (i.e. indifferent to others) husband creates the possibility of the household pursuing both strategies. In this

13. See Ronald Coase, *The Nature of the Firm*, IV *Economica* (1937) and the enormous literature spawned by this article.

14. Carol Rose, *Bargaining and Gender*, 18 *HARV. J.L. & PUB. POL'Y* 547 (1995).

event, the husband would play "tit-for-tat" with the outside world, while the wife would maintain the cooperative relationships, both inside the family, and with the (necessarily) small number of trusted people outside it. For this scenario to work, however, there must be trust and a kind of unity of purpose within the marriage. The tendency of the husband to play "tit-for-tat" must somehow be restrained in his relationship with his wife and children. He must somehow learn to be "other regarding" at least with these significant others. At the same time, the wife's tendency to trust must be restrained so that she does not give away the store, so to speak. Both have something significant to offer the partnership, and each has something significant to learn from the other.

Professor Rose constructs a rather grim scenario in which the non-cooperative partner in the marriage extorts everything from his wife, who is assumed to be the only one concerned the children.¹⁵ The more typical "rational" player chooses "tit-for-tat:" he does not cheat unless cheated upon.¹⁶ Thus, Rose's scenario is based upon the marriage unravelling when one person decides to extort all the gains from a relationship that presumably was once mutually beneficial. But an equally grim scenario can be constructed in which the cooperative partner withdraws her cooperation. Game theory shows that if the cooperative partner decides to defect for some reason, the game will unravel almost immediately, as the "tit-for-tat" player will also withdraw his cooperation.¹⁷

Thus, the conclusion drawn by Professor Rose is not the only one that could be drawn from her framework. She argues that women should acquire more property, specifically so that they will be less inclined to cooperate when it is against their interest to do so.¹⁸ Having income or wealth independently of their husbands allows women to refuse to cooperate with their extortionist husbands. And this is certainly true. But it is equally true that husbands need to learn to cooperate. They need to learn to be willing to pay some price, some of the time, to keep their families together, rather than to extort all the quasi-rents from the partnership.

15. *Id.* at 561-63.

16. DOUGLAS G. BAIRD, *GAME THEORY AND THE LAW* (1994).

17. *Id.*

18. Rose, *supra* note 14, at 561.

This bears upon my earlier observations about the relationship between divorce and the labor force. Women with greater income levels can more readily withdraw their cooperation, and when they do, the marriage game unravels unless the man has developed some ability to cooperate. So it seems just as urgent that men learn to cooperate, as that women acquire property. These seem to be parallel tracks that should be pursued.

I think that one of the problems with the traditional marriage was that the partners became overly specialized emotionally as well as economically. Perhaps it will seem strange for an economist to criticize specialization and division of labor. But it is my considered opinion that we can easily overdo it.

We might describe the emotional division of labor in traditional marriages in the following way: the mother is in charge of all the relationships inside the family, sometimes monitoring and controlling even the sibling relationships, while the father is in charge of the family's relationships with the outside world. The benefit of this specialization is that each of them does what they are most comfortable doing. The cost of it is that they missed many opportunities to learn from each other's strengths. They spend a lot of time trying to get the other to behave as they would, rather than appreciating the unique contributions the other makes to the partnership. And indeed, trying to "get the other person to change," is quite a different activity from being willing to change yourself.

VI. CONCLUSION: MISSED OPPORTUNITIES

If we had chosen "Live a Balanced Life" as our slogan, the whole feminist movement could have had a distinctly Aristotelian ring to it.¹⁹ If we had chosen "Love Your Neighbor as Yourself" as our approach, the feminist movement could have drawn upon the best of Christianity. In either of these approaches, we would have been drawing upon the best, deepest, and most thoughtful aspects of our traditions. Instead, we chose "Having it All" as our slogan and equality of income as our goal. In so doing, we embraced a shallow materialism and a mindless egalitarianism.

In short, I believe that the women's movement has missed some opportunities. We could have humanized the workplace; instead, we bureaucratized the home. We demand that our hus-

19. See *supra* text accompanying notes 10-11.

bands be like ourselves, sometimes creating elaborate implicit or even explicit accounting systems to ensure that they do so.²⁰ We demand child care, so that we can leave the home and compete with men at work. We abandon the best that is in us, so that we can emulate the worst that is in men. When we harden our hearts to place a six week old baby into the care of strangers, who will moderate us?

The opportunity for a different kind of women's movement still exists, however. The alternative visions that I suggest are still within our reach. These visions lie within our power to choose. We can address the universal issues of work and marriage in different ways. Instead of increasing women's financial security as a means of coping with the instability of marriage, we could work on improving our marriages. Our mothers could have benefitted from better marriages, and so could we.

But this different kind of women's movement requires a very different mindset. We need to face some of the basic realities of the human condition: our finiteness and our imperfection. We need to let go of the illusion that we can and should change everything and everyone around us. This distracts us from our primary task of changing ourselves in all the many ways that we can be changed for the better. We need to trust that if we change our corner of the world, we really are doing our part to create a better world. Ultimately, these are the truly rational choices for us.

20. See, e.g., Gillian K. Hadfield, *Households at Work: Beyond Labor Market Policies to Remedy the Gender Gap*, 82 GEO. L.J. 89-90 (1993) (arguing that economists and lawyers should study the household division of labor more thoroughly, with an eye toward reform, because labor market interventions will never by themselves adequately remedy the gender gap).