

# Gender, Geography & Rural Justice

Lisa R. Pruitt 2008†

## ABSTRACT

This Article argues that a more grounded and nuanced understanding of women’s lived realities requires legal scholars to engage geography. Because spatial aspects of women’s lives implicate inequality and moral agency, they have direct relevance to an array of legal issues. The Article thus deploys the tools of critical geographers—space, place, and scale—to inform law and policy-making about an overlooked population for whom spatiality can be a profoundly influential force: rural women.

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[I]t is now space more than time that hides things from us.<sup>1</sup>

## I. INTRODUCTION

Legal scholars often think about social change over time, using history as a lens to reveal disadvantage and injustice.<sup>2</sup> Among them, feminist legal scholars have shown how society's evolving perception of women and gender roles have informed changes to the law.<sup>3</sup> Like other critical scholars, they have thus used history as a lens to reveal disadvantage and injustice. For example, feminists have shown the public-private divide to be a product of historical events.<sup>4</sup> They have specifically linked this separate spheres ideology to the industrial revolution, when men moved from the home into spatially separate workplaces.<sup>5</sup>

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1. EDWARD W. SOJA, *POSTMODERN GEOGRAPHIES: THE REASSERTION OF SPACE IN CRITICAL AND SOCIAL THEORY* 60 (1989) [hereinafter SOJA, *POSTMODERN GEOGRAPHIES*].
  2. See NICHOLAS K. BLOMLEY, *LAW, SPACE AND THE GEOGRAPHIES OF POWER* 14-24 (1994) (citing R.W. Gordon, *Critical Legal Histories*, 36 *STAN. L. REV.* 57 (1984) to discuss critical legal scholars' reliance on time and history, even as they neglect space). See also Liaquat Ali Khan, *Temporality of Law*, 40 *MCGEORGE L. REV.* (forthcoming 2008) (discussing the many roles that temporality plays in the substance of various laws).
  3. Several examples of this may be found in tort law. See generally MARTHA CHAMALLAS, *INTRODUCTION TO FEMINIST LEGAL THEORY* (2d ed. 2003) (organizing discussion of the different stages of feminist legal theory in relation to the particular decades in which they occurred); Martha Chamallas & Linda K. Kerber, *Women, Mothers and the Law of Fright*, 88 *MICH. L. REV.* 814 (1990); Martha Chamallas, *Discrimination and Outrage: The Migration from Civil Rights to Tort Law*, 48 *WM. & MARY L. REV.* 2115 (2007); Lisa R. Pruitt, *Her Own Good Name: Two Centuries of Talk about Chastity*, 63 *MD. L. REV.* 401 (2004).
  4. See, e.g., Frances E. Olsen, *The Family and the Market: A Study of Ideology and Legal Reform*, 96 *HARV. L. REV.* 1497, 1566, 1570 (1983) ("The historical process of gender differentiation consists in recognizing that what was previously considered immutable is contingent and subject to human control.").
  5. See DAVID DANBOM, *BORN IN THE COUNTRY: A HISTORY OF RURAL AMERICA* 89 (1995) (discussing the impact of the industrial revolution on separate spheres ideology, which subsequently influenced gender roles in rural America); MONA DOMOSH & JONI SEAGER,

In this Article, I argue that a better understanding of women's lived realities, including their encounters with the law, requires legal scholars to engage not only history, but also geography. Because spatial aspects of women's lives implicate inequality and moral agency,<sup>6</sup> they are directly relevant to an array of legal issues. Like feminists in other disciplines,<sup>7</sup> I deploy the tools of critical geographers—space, place, and scale—but I do so with a view toward informing law and policy-making about a frequently overlooked population: rural women.

While historical analysis relies on the vector of time, geographic analysis uses the complementary vector of space.<sup>8</sup> “Space” is an abstract concept that refers both to the familiar idea of physical surroundings (physical space) and to the impact that particular spatial configurations have on many aspects of life, from social relationships to economic opportunity (social space). Attending to the rural seems an obvious aspect of the “space” part of critical geography given the literal, physical isolation of rural residents and rural communities from one another, as well as the influence of this characteristic on how rural spaces and places are socially constructed.<sup>9</sup> “Place” is a more concrete subset of space.

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PUTTING WOMEN IN PLACE: FEMINIST GEOGRAPHERS MAKE SENSE OF THE WORLD 2-6, 76-77 (2001) (discussing the historical evolution of the separate spheres ideology between the seventeenth and nineteenth centuries, and associating it with the rise of a capitalist economy and the development of industrial cities); JOAN WILLIAMS, UNBENDING GENDER 1-3 (2000) (discussing the rise of “domesticity,” the gendered separation of market work and family work that took hold by the turn of the nineteenth century); Linda K. Kerber, *Separate Spheres, Female Worlds, Woman's Place: The Rhetoric of Women's History*, 75 J. AM. HIST. 9, 15-16 (1988) (discussing the work of historian Nancy F. Cott, who located the establishment of separate spheres in economic changes in the industrial revolution) [hereinafter Kerber, *Separate Spheres*]; Olsen, *supra* note 4, at 1498-1500; Susan G. Ridgeway, *Loss of Consortium and Loss of Services Actions: A Legacy of Separate Spheres*, 50 MONT. L. REV. 349, 356 (1989) (discussing the creation of loss of consortium in the context of separate spheres ideology).

6. See generally Lisa R. Pruitt, *Toward a Feminist Theory of the Rural*, 2007 UTAH L. REV. 421 (arguing that the spatial isolation and lack of anonymity associated with rurality undermine rural women's autonomy and subjectivity) [hereinafter Pruitt, *Feminist Theory of the Rural*]. See also MARTHA NUSSBAUM, *FRONTIERS OF JUSTICE* 225 (2006) (recognizing the rural-urban axis as reflecting power disparities, and noting its neglect by scholars).
7. Feminist geography's objectives include investigating “the relationships between gender divisions and spatial divisions” and “problematiz[ing] their apparent naturalness.” LINDA MCDOWELL, *GENDER, IDENTITY AND PLACE: UNDERSTANDING FEMINIST GEOGRAPHIES* 12 (1999) [hereinafter MCDOWELL, *FEMINIST GEOGRAPHIES*]; see also DOREEN B. MASSEY, *SPACE, PLACE AND GENDER* (1994); DAPHNE SPAIN, *GENDERED SPACES* (1992); GILLIAN ROSE, *FEMINISM & GEOGRAPHY: THE LIMITS OF GEOGRAPHICAL KNOWLEDGE* (1993); DOMOSH & SEAGER, *supra* note 5. Feminist legal scholars have also begun to reference spatial concepts. See, e.g., Laura A. Rosenbury, *Between Home and School*, 155 U. PA. L. REV. 833, 840 (2007) (discussing spatiality and the socialization of children at home, as private, and at school, as public); Carol Sanger, *Girls and the Getaway: Cars, Culture, and the Predicament of Gendered Space*, 144 U. PA. L. REV. 705 (1995); Katharine B. Silbaugh, *Women's Place: Urban Planning, Housing Design, and Work-Family Balance*, 76 FORDHAM L. REV. 1797 (2007).
8. I borrow this phrase from Hari Osofsky, *A Law and Geography Perspective on the New Haven School*, 32 YALE J. INT'L L. 421, 422 (2007) [hereinafter Osofsky, *New Haven School*].
9. See *infra* Part IV.A and accompanying text; see also Marc Mormont, *Who Is Rural? Or,*

Analysis based on place considers particular locales, taking into account the range of characteristics that distinguish one place from another.<sup>10</sup> “Scale” is a unit of measure of space and place: for example, the household, the region, the globe.<sup>11</sup>

These spatial concepts can be illustrated by a brief example based in part upon an empirical study of gender in rural Appalachia. That study showed changes at a global *scale* having material consequences at regional and local scales, even at the micro-sites of household and body.<sup>12</sup> Global economic shifts forced a mine closure,<sup>13</sup> leaving many local miners unemployed. Viewing available service jobs as beneath them, the male miners moved into private or quasi-public *spaces*, away from the formal market. They resorted to the informal economy (e.g., car repair, cutting and hauling firewood) to help make ends meet.<sup>14</sup> Many of the miners’ wives moved from the domestic and private spaces of the home into the public spaces of the market by taking paid work to supplement family coffers.

Women’s newfound status as earners conferred on them some power that altered the division of reproductive labor in the private space of the household, while also endowing them with greater power in the various public spaces of the community.<sup>15</sup> Shifts thus occurred at multiple scales, and these changes reverberated across even higher scales as a few women took on leadership roles in local and regional political movements. At the same time, agitation about shifting gender roles and the stress of economic hardship was sometimes

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*How to Be Rural: Towards a Sociology of the Rural*, in RURAL RESTRUCTURING: GLOBAL PROCESSES AND THEIR RESPONSES 21, 28-41 (Terry Marsden et al. eds., 1990) (arguing for attention to rural identities in relation to spatial analysis); Keith Halfacree, *Rural Space: Constructing a Three-fold Architecture*, in HANDBOOK OF RURAL STUDIES 44 (Paul J. Cloke et al. eds., 2006) (noting the inherent spatiality in the concept “rural”) [hereinafter HANDBOOK]; Hugh Campbell et al., *Masculinity and Rural Life: An Introduction*, in COUNTRY BOYS: MASCULINITY AND RURAL LIFE 1, 1-7 (Hugh Campbell et al. eds., 2006).

10. MASSEY, *supra* note 7, at 179-80.
11. Ann R. Tickamyer, *Space Matters! Spatial Inequality in Future Sociology*, 29 CONTEMP. SOC. 805, 811 (2000) [hereinafter Tickamyer, *Space Matters!*].
12. This scenario is based loosely on a study of gender changes in the midst of Appalachian Kentucky in the 1990s. See Christiana E. Miewald & Eugene J. McCann, *Gender Struggle, Scale and the Production of Place in the Appalachian Coalfields*, 36 ENV'T & PLAN. 1045 (2004).
13. See generally Bryan McNeil, *Global Forces, Local Worlds: Mountaintop Removal and Appalachian Communities*, in THE AMERICAN SOUTH IN A GLOBAL WORLD 99, 100-02 (James L. Peacock et al. eds., 2005) (explaining how the loss of coal mining jobs in the United States results from globalization); William W. Falk et al., *Introduction to COMMUNITIES OF WORK: RURAL RESTRUCTURING IN GLOBAL AND LOCAL CONTEXTS* (William W. Falk et al. eds., 2003) (discussing the interplay of local and global forces in various rural restructuring scenarios).
14. Miewald & McCann, *supra* note 12, at 1055.
15. *Id.* at 1057-61; see also Nancy A. Naples, *Contradictions in Agrarian Ideology: Restructuring Gender, Race-Ethnicity, and Class*, 59 RURAL SOC. 110, 123-25 (1994) (documenting newfound community respect for the contributions of women who worked outside the home to supplement family farm income).

associated with intimate partner violence,<sup>16</sup> which implicated the lower scale of the body.

Law and legal actors also have roles in these socio-spatial phenomena that play out in real *places*. These roles include, for example, global trade agreements that lead to rural economic restructuring, as well as federal and state laws that govern employment. At the other end of the causal chain, these roles include local law enforcement responses to domestic violence and other micro-scale consequences.<sup>17</sup>

As this example illustrates, critical geography can bring “the rural” into scholarly view and presents opportunities to expand our understanding of the diffuse and localized operation of the law. Unlike the robust disciplines of rural sociology and rural economics, legal scholars and critical geographers ignore the rural/urban axis.<sup>18</sup> I am thus challenging the often-implicit scholarly association of both critical geography and law with that which is urban.<sup>19</sup>

16. Deborah M. Weissman, *The Personal is Political—and Economic: Rethinking Domestic Violence*, 2007 BYU L. REV. 387, 419-30, esp. 428-30 (2007) (examining how loss of employment and subsequent failure to live up to prescribed gender roles relate to occurrence of domestic violence); see also Miewald & McCann, *supra* note 12, at 1055-56 (noting that women’s resistance to their gendered roles threatened “patriarchal authority,” sometimes resulting in domestic violence and divorce); Jennifer Nou & Christopher Timmins, *How Do Changes in Welfare Law Affect Domestic Violence? An Analysis of Connecticut Towns, 1990-2000*, 34 J. LEGAL STUD. 445, 447 (2005) (noting that men will beat their wives and girlfriends the night before the woman’s job interview or training to prevent financial and social independence); KATHLEEN PICKERING ET AL., WELFARE REFORM IN PERSISTENT RURAL POVERTY 215 (2006) (suggesting that added financial tensions created by welfare reform increased domestic violence among the working poor).

17. See Lisa R. Pruitt, *Place Matters: Domestic Violence and Rural Difference*, 24 WIS. J.L. GENDER & SOC’Y (forthcoming 2008) [hereinafter Pruitt, *Place Matters*].

18. Some recent forays into what might be called “legal ruralism” include: Katherine Porter, *Going Broke the Hard Way: The Economics of Rural Failure*, 2005 WIS. L. REV. 969; Ezra Rosser, *Rural Housing and Code Enforcement: Navigating Between Values and Housing Types*, 13 GEO. J. ON POVERTY L. & POL’Y 33 (2006).

Indeed, just as critical geographies tend to ignore rurality, rural sociologists and rural economists largely ignore law. These scholars rarely engage law, even though law-related topics such as welfare and domestic violence attract their attention. See, e.g., Greg Duncan et al., *Welfare, Food Assistance and Poverty in Rural America*, in RURAL DIMENSIONS OF WELFARE REFORM 455 (Bruce A. Weber et al. eds., 2002) [hereinafter RURAL WELFARE REFORM]; Carol K. Feyen, *Isolated Acts: Domestic Violence in a Rural Community*, in THE HIDDEN AMERICA: SOCIAL PROBLEMS IN RURAL AMERICA FOR THE TWENTY-FIRST CENTURY 108 (Robert M. Moore III ed., 2001) [hereinafter THE HIDDEN AMERICA].

19. In particular, I refute postmodern geographer Edward Soja’s implicit assertion that only the urban is worthy of critical attention. See Gerald W. Creed & Barbara Ching, *Recognizing Rusticity: Identity and the Power of Place*, Introduction to KNOWING YOUR PLACE: RURAL IDENTITY AND CULTURAL HIERARCHY 8 (Barbara Ching & Gerald W. Creed eds., 1997). Ching and Creed have also observed that “[t]he rural/urban distinction underlies many of the power relations,” and therefore “the city remains the locus of political, economic and cultural power.” *Id.* at 2, 17; see also *infra* note text at 181 (quoting SOJA, POSTMODERN GEOGRAPHIES, *supra* note 1); Linda McDowell, *The Transformation of Cultural Geography*, in HUMAN GEOGRAPHY: SOCIETY, SPACE AND SOCIAL SCIENCE 146, 152 (Ron Martin et al. eds., 1994) (noting a trend among cultural geographers to study questions about the “city and cultural life” and “how people experience and respond to the ‘urban experience’”).

The urban trend in critical geography is also evident in the titles of recent significant works in the field. See, e.g., NEIL BRENNER, NEW STATE SPACES: URBAN GOVERNANCE AND THE

Part II of this Article addresses the meaning of “rural” and discusses the term’s contested character, which reflects the burgeoning variation among the places bearing this label. It also provides a brief economic and socio-cultural overview of rural America, emphasizing changes over the past few decades and discussing what we know about the day-to-day lives of rural women. This section thus provides a foundation for demonstrating how critical geography can reveal the ways in which spatial and other features of rural locales constrain and shape social relations, economic activity, and the accompanying role and application of the law.

Part III is a primer on critical geography, focusing on the key concepts of space, place, and scale. I discuss and illustrate how these concepts can reveal often obscured differences between rural women’s lives and the implicit urban norm. Part III.A on “Space” theorizes the intersection of rural spatiality with gendered spatiality. Part III.B on “Place” explores rurality as a grounded metaphor, discussing the gendered consequences of economic restructuring in two rural places and noting the resulting legal issues. Part III.C on “Scale” challenges scholarly associations of rurality with that which is local, and discusses the character of rural places as embedded in higher scales (state, national, and global). This occurs even as their rural character also influences behavior and outcomes in the nested scales of body and household. I conclude with thoughts on how critical geography might further illuminate not only the lived realities of rural women, but also the legal relevance of those realities.

## II. WHAT IT MEANS TO BE RURAL

Before turning to the perspectives that critical geographers offer regarding rural women, it is important to discuss what “rural” means, what the term includes, and what its invocation suggests. Some think of rural places simply as sparsely populated areas, but the term also carries social and cultural connotations. Long-time rural residents might, for example, characterize rurality as a “way of life.”<sup>20</sup> These individuals, who comprise a significant subset of the

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RESCALING OF STATEHOOD 9 (2004) [hereinafter BRENNER, *NEW STATE SPACES*]; EDWARD W. SOJA, *THIRDSPACE: JOURNEYS TO LOS ANGELES AND OTHER REAL—AND—IMAGINED SPACES* (1996) [hereinafter SOJA, *THIRDSPACE*]. Three chapter titles of an edited volume on law and critical geography also mention “urban” or “the city”; none mentions “rural.” NICHOLAS BLOMLEY ET AL., *THE LEGAL GEOGRAPHIES READER* (2001); *but see* HANDBOOK, *supra* note 9 (drawing on critical geography in many contributions, especially those written by non-U.S. authors); Victoria A. Lawson et al., *Building Economies from the Bottom Up: (Mis)representations of Poverty in the Rural American Northwest*, 9 *SOC. & CULTURAL GEOGRAPHY* 737 (2008) (analyzing representations of poverty through a post-Colonial lens).

20. *See, e.g.*, Naples, *supra* note 15, at 115-16 (describing the agrarian ideology—and paradox—as based on strong community, rugged individualism, and highly structured gender roles); *see also* Ann V. Millard et al., *Aqui in the Midwest*, in *APPLE PIE & ENCHILADAS: LATINO NEWCOMERS IN THE RURAL MIDWEST* 2-3 (Ann V. Millard & Jorge Chapa eds., 2004) (noting that new populations challenge long-time residents’ assumptions about the rural).

rural population, could be described as “traditional.”<sup>21</sup> They are likely to share a long history in the region where they live, with many families residing there over several generations. In many rural locales, poverty is high and intergenerational, local economies lack diversity, and jobs tend to be scarce and scattered. Further, these populations tend to be ethnically and culturally homogeneous and generally value consensus and tradition.<sup>22</sup> Although my analysis focuses on such “traditional” rural places, I take this opportunity to illustrate briefly the variety among rural places, which is often overlooked.<sup>23</sup>

### A. The Contested Nature of “the Rural”

The tendency of critical geographers to overlook rurality<sup>24</sup> is ironic given that the term “rural” is generally understood in reference to space. The *Encyclopedia of Rural America* defines “rural” places as having “relatively sparse populations and relative isolation from urban areas.”<sup>25</sup> While this suggests that the term is straightforward, even simple,<sup>26</sup> it is not. Judges, legislatures, and administrative agencies offer myriad definitions of “rural,”<sup>27</sup> and contemporary society similarly contests the term’s meaning.<sup>28</sup>

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21. See *infra* notes 76-91 and accompanying text.
  22. This phenomenon seems consistent with the thesis of a recent book, *The Big Sort*, which argues that Americans increasingly choose a sort of social and political balkanization that is reflected in where they live. See BILL BISHOP, *THE BIG SORT: WHY THE CLUSTERING OF LIKE-MINDED PEOPLE IS TEARING US APART* (2008).
  23. To overlook such variety is consistent with a tendency to view those designated as “other” in an overly broad, generalized way that ignores their multi-dimensionality and variety. See, e.g., Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581, 588 (1990) (arguing that “the notion that there is a monolithic ‘women’s experience’ that can be described independent of other facets of experience like race, class, and sexual orientation” necessarily silences the voices of some women and privileges those of others).
  24. See, e.g., Michael M. Bell, *The Fruit of Difference: The Rural-Urban Continuum as a System of Identity*, 57 RURAL SOC. 65 (1992) (noting the assumption by social scientists that rural and urban were no longer substantially different, though the study showed that rural residents continued to identify as rural). This oversight persists despite the socio-spatial struggles—including gendered ones—associated with rural living.
  25. Frank L. Farmer, *The Definition of “Rural,”* in *ENCYCLOPEDIA OF RURAL AMERICA: THE LAND AND PEOPLE* 833 (Gary A. Gorcham ed., 2d ed. 2008). This is called the “ecological component” of rurality. *Id.*
  26. See *Kenaitze Indian Tribe v. Alaska*, 860 F.2d 312, 316, 318 (9th Cir. 1988) (calling “rural” a “simple term” and “not a term of art”). The Ninth Circuit in *Kenaitze* cited the *Webster’s Dictionary* definition of rural with its reference to “areas of the country that are sparsely populated, where the economy centers on agriculture or ranching.” *Id.* at 316-17. “More broadly,” the court concluded, “rural is an antonym of urban and includes all areas in between cities and towns of a particular size.” *Id.* at 317.
  27. See Lisa R. Pruitt, *Rural Rhetoric*, 39 CONN. L. REV. 159, 177-84 (2006) (discussing various judicial and statutory definitions of rural) [hereinafter Pruitt, *Rural Rhetoric*]; see also OFFICE OF VIOLENCE AGAINST WOMEN, U.S. DEPT. OF JUSTICE, 2006 BIENNIAL REPORT TO CONGRESS ON THE EFFECTIVENESS OF GRANT PROGRAMS UNDER THE VIOLENCE AGAINST WOMEN ACT 5 n.9 (2006) available at <http://www.ovw.usdoj.gov/reports-congress.htm> [hereinafter 2006 VAWA BIENNIAL REPORT] (defining as “rural” states with “a population of 52 or fewer persons per square mile” or those in which “the largest county has a population of less than 150,000 people”).
  28. One example would be the popular blog, *The Rural Life*. See Verlyn Klinkenborg, *The Rural*

The U.S. government uses two numerical thresholds to differentiate rural from urban. The U.S. Census Bureau defines “rural” places as “all territory, population, and housing units located outside of urbanized areas and urban clusters with a population of 2,500 or less.”<sup>29</sup> The Office of Management and Budget (OMB) uses the terms metropolitan (metro) and nonmetropolitan (nonmetro) to refer to a similar dichotomy. Metro counties are urbanized areas of 50,000 or more with a total area population of at least 100,000,<sup>30</sup> nonmetro counties are everything else.<sup>31</sup> The term “rural” is therefore broader than “nonmetro” because it includes people living in open territory or towns with fewer than 2,500—even if they are living in a metro county.<sup>32</sup>

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Life, <http://klinkenborg.blogs.nytimes.com> (documenting aspects of Klinkenborg’s life as owner of a five-acre farm in Columbia, New York). Klinkenborg does not rely on the farm for living, but sometimes contrasts his farming existence, which he calls not a “real farm,” with that of his family farm in Iowa. *Id.* at entry on Jan. 12, 2006, 23:00 EST. He also commented on various matters of agricultural interest. *Id.* at entry on Apr. 4, 2006, 09:57 EST. Somewhat similarly, those who choose an exurban lifestyle often refer to their rural lives. See Abby Goodnough, *In Florida, a Big Developer Is Counting on Rural Chic*, N.Y. TIMES, Aug. 22, 2005, at A1 (describing rural chic and “new ruralism” as a movement that promotes connecting with land, where middle-aged people move from coastal and urban regions to developments with five to twenty-acre lots where rural trappings are marketed to prospective homeowners).

The meaning of “rural” is also contested among scholars. For example, rural sociologist Marc Mormont traces the history of usage of the term “rural” in relation to sociology. Mormont, *supra* note 9, at 21, 28-29, 36 (also criticizing the trend among rural sociologists to refer to the abstract term “rurality,” rather than to more concrete terms such as the rural environment or rural class, suggesting that this is due to the difficulty in defining rurality in terms that are not abstract); see also Farmer, *supra* note 25, at 834; Richard Dewey, *The Rural-Urban Continuum: Real but Relatively Unimportant*, 66 AM. J. OF SOC. 60 (1960) (arguing that the terms rural and urban are effectively meaningless designations because sociologists use them to refer to many different characteristics); U.S. DEP’T OF AGRIC, AGRIC. INFO. BULL., RURAL POPULATION AND MIGRATION TREND 1: HARDER TO DEFINE “RURAL,” available at <http://www.ers.usda.gov/Briefing/Population/Rural.htm> (observing that most counties, whether metro or nonmetro, have a combination of rural and urban populations).

29. U.S. Census Bureau, Census 2000 Urban and Rural Classification, [http://www.census.gov/geo/www/ua/ua\\_2k.html](http://www.census.gov/geo/www/ua/ua_2k.html) (last visited Feb. 18, 2008) (defining “urban” as including “all territory, population, and housing units located within an urbanized area (UA) or an urban cluster (UC),” which “delineates the UA and UC boundaries to encompass densely settled territory, which consists of: (1) core census block groups or blocks that have a population density of at least 1,000 people per square mile, and (2) surrounding census blocks that have an overall density of at least 500 people per square mile”).
30. Standards for Defining Metropolitan and Micropolitan Statistical Areas, 65 Fed. Reg. 82,228 (Office of Mgmt & Budget Dec. 27, 2000) (notice) (stating that the designation of metro or nonmetro is at the county level).
31. *Id.* Metro areas thus include suburbs and other nearby areas that are socially and economically integrated. *Id.* More than 55 million people—almost 20% of Americans—live in nonmetro areas, and more than 59 million people—about 21% of Americans—live in rural areas. U.S. Census Bureau, Geographic Comparison Table, Urban/Rural and Metropolitan/Nonmetropolitan Population (2000), [http://factfinder.census.gov/home/saff/main.html?\\_lang=en](http://factfinder.census.gov/home/saff/main.html?_lang=en) (follow “Data Sets” link; select “Geographic Comparison Tables” link; select U.S.—Urban/Rural and Inside/Outside Metro Area) [hereinafter American Fact Finder].
32. According to the 2000 census, 25.7 million “rural” residents live in “metropolitan” areas by



Definitions that rely heavily on physical characteristics such as population, density, and size clusters are convenient in their relative simplicity, but they ignore important social and cultural characteristics.<sup>33</sup> Although I use “rural” to refer generally to sparsely populated places, I acknowledge that even the single variable of low population density refers to a relatively wide range of locales with differing demographic, economic, and social characteristics.<sup>34</sup>

I also recognize other aspects of the rural/urban continuum.<sup>35</sup> As reflected in the OMB classification scheme,<sup>36</sup> some nonmetro places are more rural (or less metro) than others.<sup>37</sup> The OMB uses the label “micropolitan” for nonmetro

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virtue of being in a metro county. *Id.* “Nonmetro,” excludes people who live in small towns with fewer than 2,500 residents or in open territory, but who are classified as metro because they are within a metro county. Leslie Whitener et al., *Introduction: As the Dust Settles: Welfare Reform and Rural America*, in RURAL WELFARE REFORM, *supra* note 18, at 19, n.4; see also John Cromartie and Shawn Bucholtz, Econ. Res. Serv., U.S. Dep’t of Agric., *Defining the “Rural” in Rural America*, 6 AMBER WAVES, June 2008, available at <http://www.ers.usda.gov/AmberWaves/June08/PDF/RuralAmerica.pdf> (describing the variety of ways in which the federal government defines “rural”); Econ. Res. Serv., U.S. Dep’t of Agric. Briefing Room, *Measuring Rurality: What is Rural?* (Mar. 22, 2007), <http://www.ers.usda.gov/Briefing/Rurality/WhatIsRural> (explaining new definitions of urban/rural and metro/nonmetro).

33. Mormont observes the variety of “versions of the rural-urban opposition,” with different ideological references, social foundations, and reinterpretations of tradition. Mormont, *supra* note 9, at 41. He writes of the “different ways of considering oneself to be rural, of identifying with ‘rurality.’” *Id.* See also Dewey, *supra* note 28 (debating the significance of number, density of settlement, and heterogeneity in producing the social characteristics associated with rural and urban places).
34. Indeed, a familiar adage among those who study the rural holds: “if you’ve seen one rural place, you’ve seen *one* rural place.” Louis E. Swanson & David L. Brown, *Challenges Become Opportunities: Trends and Policies Shaping the Future*, in CHALLENGES FOR RURAL AMERICA IN THE TWENTY-FIRST CENTURY, 397 (David L. Brown et al. eds., 2003) (crediting rural sociologist Daryl Hobbs with this aphorism) [hereinafter CHALLENGES].
35. See Tickamyer, *Space Matters!*, *supra* note 11, at 811 (calling for movement beyond “binary spatial distinctions” such as rural-urban to development of “spatial continua with variable and permeable boundaries defined by careful delineation of their properties”). Scholars have observed that while the urban/rural dichotomy is pervasive, it is also socially constructed. Mormont, *supra* note 9, at 41. Ching and Creed use the “omnipresence of the rural/urban distinction” to argue its cultural relevance—even in the face of “more ambiguous forms of settlement,” such as suburbs and exurbs. Ching & Creed, *supra* note 19, at 15-16 (quoting RAYMOND WILLIAMS, *THE COUNTY AND THE CITY* 289 (1973), for observation that, in spite of the reality of these “intermediate” forms of “social and physical organization . . . the ideas and the images of the country and city retain their great force.”).
36. This continuum is reflected in the Office of Management and Budget’s (OMB) classification scheme, which includes six categories within the broad nonmetro category and three sub-classifications within the broad category of “metro.” The nonmetro subcategories vary according to the presence and size of urban populations within a given nonmetro county and the county’s proximity to a metropolitan area. See Econ. Res. Serv., U.S. Dep’t of Agric. Briefing Rooms, *Measuring Rurality: Rural-Urban Continuum Codes* (Apr. 28, 2004), <http://www.ers.usda.gov/Briefing/Rurality/RuralUrbCon/>.
37. This phenomenon has also been recognized in case law. See *Gallivan v. Walker*, 54 P.3d 1069, 1115 (Utah 2002) (Thorne, J., dissenting) (noting the difficulty of characterizing as rural or urban cities such as Moab and Park City, with small year-round populations, as well as Logan and St. George, cities with substantial populations but within otherwise rural counties). See also *People v. Green*, 27 Cal. 3d 1 (1980) (referring, in the context of a change-of-venue decision, to the place of trial being neither “a large metropolitan center,” nor “a rural outback”). Ching and Creed observe a similar distinction between “shallow

places with a population cluster between 10,000 and 50,000.<sup>38</sup> This designation recognizes that surrounding smaller communities are economically interdependent with such micropolitan population centers.

Exurbia is another aspect of that rural/urban spectrum.<sup>39</sup> As urbanites move to the country, willing to endure long commutes in exchange for a partial escape from city life, long-time rural places morph into exurbia.<sup>40</sup> While such places may remain sparsely populated, they become economically, socially, and culturally integrated with the urban.<sup>41</sup> Many of my broad assumptions about rurality do not apply to these particularly dynamic places, which may nevertheless be referred to as “rural.”<sup>42</sup> In the language of critical geography, the socio-spatial construction of exurbia differs from that of more isolated and traditional rural communities.<sup>43</sup>

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rural” and “deep rural.” Ching & Creed, *supra* note 19, at 15.

38. See Econ. Res. Serv., U.S. Dep’t of Agric. Briefing Rooms, *Measuring Rurality: What is a Micropolitan Area?* (Oct. 24, 2006), <http://www.ers.usda.gov/Briefing/Rurality/MicropolitanAreas>.
39. “Exurbs” are “a type of spatial pattern of settlement that differ[s] from their suburban counterparts, . . . [are] located at greater distances from urban centers than suburban developments, and are comprised of a different mix of land uses and population.” Exurban Change Program, *Defining Exurban*, <http://www-agecon.ag.ohio-state.edu/programs/exurbs/def.htm> (last visited Feb. 18, 2008); see also Sonya Salamon, *From Hometown to Nontown: Rural Community Effects of Suburbanization*, 68 RURAL SOC. 1 (2003) (lamenting the loss of identity of small towns when they become “sleepier towns” to cities) [hereinafter Salamon, *Hometown to Nontown*]; SONYA SALAMON, *NEWCOMERS TO OLD TOWNS* (2003) (same; criticizing aspirations to become bedroom communities as a new survival strategy of small towns) [hereinafter SALAMON, *NEWCOMERS*]; Mike Madison, *A Place in the Country: Rural Dwellings and the Paradox of Rurality*, 25 ENVIRONS ENVTL. L. & POL’Y J. 29 (2001) (observing the paradox of exurbia in that people moving to rural areas destroy the very rural character that attracted them); Pruitt, *Rural Rhetoric*, *supra* note 27, at 222-25.
40. Since 1970, more than 35 metropolitan areas have developed in what were rural places. James R. Elliott & Marc J. Perry, *Metropolitanizing Nonmetro Space: Population Redistribution and Emergent Metropolitan Areas, 1965-1990*, 61 RURAL SOC. 497 (1996).
- As a related matter, several scholars have commented on the increasing interdependence of rural and urban areas, which is consistent with globalization. Mormont has argued that urban residents’ increasing use of the countryside has changed the nature of rurality, such that it is less defined “in terms of belonging to a particular place” and “associated more with the varying opportunities rural space affords”). Mormont, *supra* note 9, at 13; see also Linda Lobao, *Continuity and Change in Place Stratification: Spatial Inequality and Middle-Range Territorial Units*, 69 RURAL SOC. 1, 21-25 (2004) (arguing for attention to how rural and urban areas intersect and pointing out how rural areas are taking on functions discarded by cities, such as hazardous waste storage and prisons) [hereinafter Lobao, *Continuity and Change*].
41. The same might be said of upscale resorts in rural areas, such as Telluride, Colorado. Although it is physically isolated from the nearest metropolitan areas (Denver, Phoenix, and Salt Lake City), the extraordinary wealth of many of Telluride’s residents permits them to travel frequently, by air, to and from urban places. Wealthy residents of such “rural” resorts also may experience anonymity or lack thereof differently from residents of traditional rural communities because they can buy more privacy than long-time rural residents enjoy.
42. See, e.g., Paul J. Cloke, *Rurality and Racialized Others: Out of Place in the Countryside*, in HANDBOOK, *supra* note 9, at 380.
43. A West Virginia court characterized this phenomenon in a colorful, if circular, manner:  
[A] “rural community” may be distinguished by its dominant character as a social

Despite some bases for differentiating among rural places and among people within a particular rural locale, I acknowledge essentializing “the rural.”<sup>44</sup> Rurality is, of course, rarely the “sole dimension of identification.”<sup>45</sup> My claim to a broad concept of rurality and my focus on it as a primary dimension of analysis are nevertheless helpful initial steps—perhaps necessary ones—for law’s engagement with rurality.<sup>46</sup> At the same time, as the following analysis reveals, critical geography’s more concrete and discrete construct of “place” accommodates the variations in local cultures and economies among rural locales.<sup>47</sup>

## B. Our Rural Past, Our Rural Future

Rural communities are often stereotyped as static, homogeneous, and traditional,<sup>48</sup> yet evidence abounds that rural America is in the midst of

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and economic unit founded in rural, land-based interests. *It is inhabited, in the main, by country people, who live a country life, and who engage in country pursuits.* Its residents are removed from the immediacy of urban and suburban environs, and are not immediately tied to any city or urban area; *they work, socialize and politick as an independent, integral community.* There will, of course, always be some exceptions. In nearly every community there will be at least a few people who commute to a city for business or social purposes. However, the presence of a few such people does not destroy the rural character of a community, so long as development has occurred in such a manner as not to exclude the predominance of agricultural pursuits and rural activities.

Stephens v. Raleigh County Bd. of Educ., 257 S.E.2d 175, 180 (W. Va. 1979) (emphasis added).

44. While rural sociologists and economists also tend to essentialize the rural by giving primacy in their analysis to the rural-urban axis, some scholars have criticized this practice. *See, e.g.,* Mormont, *supra* note 9, at 28-29 (tracing the history of how the term rural is used in relation to sociology, and focusing on differences among specific local communities while downplaying differences between rural and urban); *but see* Ann M. Oberhauser, *Relocating Gender and Economic Survival Strategies*, 34 ENV. AND PLAN. 1221 (2002) (suggesting commonalities among economically undeveloped areas, including the “Third World”) [hereinafter Oberhauser, *Relocating Gender*]; Ann R. Tickamyer & Debra Henderson, *Rural Women: New Roles for the New Century?*, in CHALLENGES, *supra* note 34, at 116-17 (calling for the use of national samples of rural women in future research to permit scholars to move beyond the level of anecdote).
45. Ching & Creed, *supra* note 19, at 22 (arguing that place inflects other dimensions such as race, class, gender, and ethnicity). Spatiality can aggravate disadvantages associated with race, ethnicity, class, and other markers of identity; *see also* Tickamyer & Henderson, *supra* note 44, at 114-15.
46. The same practical reality may be seen in critique, analysis, and law-making based solely on categories such as race or gender. Such essentialization of race or gender has been the subject of critique. *See, e.g.,* Harris, *supra* note 23. Nevertheless, making laws that respond to discrimination or disadvantage based on race or gender, without reference to these categories, is virtually impossible.
47. *See infra* Part IV.B.
48. Common associations with the word “rural” include traditional values, family, and religion. Rural America “conjure[d] up generally positive images” for 84% of respondents to a 2001 survey. *See* W.K. KELLOGG FOUNDATION, PERCEPTIONS OF RURAL AMERICA 6-8 (2004), available at <http://www.wkkf.org/pubs/FoodRur/Pub2973.pdf> (discussing the “overwhelmingly positive view of the people, the values, and the culture of rural America”) [hereinafter PERCEPTIONS OF RURAL AMERICA]; *see also* Pruitt, *Rural Rhetoric*, *supra* note

significant change—demographically, economically, and culturally. This Part provides a brief sketch of the data and scholarly literature regarding women in contemporary rural America. It emphasizes (1) the socioeconomic landscape, with attention to the structural disadvantages faced by rural residents, and (2) the evolving sociocultural milieu, to the extent that it can be generalized across regions and among the varied places labeled rural.

### 1. Socioeconomic and Structural Disadvantage

Poverty rates in rural parts of the United States have long been higher and more enduring than those in urban areas.<sup>49</sup> In 2007, 15.4% of the rural populace lived in poverty, while the rate in urban areas was 11.9%.<sup>50</sup> Rural households headed by women are hit especially hard, with more than a third living in impoverished conditions.<sup>51</sup> The economic outlook for rural residents remains dismal because of limited economic diversity,<sup>52</sup> substandard infrastructure,<sup>53</sup> human capital deficits,<sup>54</sup> and sparse populations that undermine economies of scale.<sup>55</sup>

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27, at 168-71.

49. ECON. RES. SERV., U.S. DEP'T OF AGRIC., RURAL INCOME, POVERTY, AND WELFARE: RURAL POVERTY, 1 (Nov. 10, 2004), <http://www.ers.usda.gov/Briefing/incomepovertywelfare>; see also ECON. RES. SERV., U.S. DEP'T OF AGRIC., RURAL DEVELOPMENT RESEARCH REPORT NO. 100 (2004), available at [http://www.ers.usda.gov/publications/rdr100/rdr100\\_lowres.pdf](http://www.ers.usda.gov/publications/rdr100/rdr100_lowres.pdf) [hereinafter RURAL POVERTY AT A GLANCE]. Of the 500 poorest U.S. counties, 459 are rural. HOUS. ASSISTANCE COUNCIL, TAKING STOCK: RURAL PEOPLE, POVERTY, AND HOUSING AT THE TURN OF THE 21ST CENTURY 18 (2002), available at <http://www.ruralhome.org/pubs/hsganalysis/ts2000/index.htm> [hereinafter TAKING STOCK]. Children and people of color represent disproportionate shares of the rural poor. *Id.* at 21-22.
50. U.S. CENSUS BUREAU, INCOME, POVERTY & HEALTH INSURANCE COVERAGE IN THE U.S.: 2007 15 (2008), available at <http://www.census.gov/prod/2008pubs/p60-235.pdf> [hereinafter CENSUS, INCOME]; see also Leif Jensen, *At the Razor's Edge: Building Hope for America's Rural Poor*, 1 RURAL REALITIES 1 (2006), available at <http://www.ruralsociology.org/pubs/RuralRealities/RuralRealities1-1.pdf>.
51. TAKING STOCK, *supra* note 49, at 21-22. As of 2003, 36.2% of rural, female-headed families were impoverished, compared to 28.9% of their urban counterparts. Lisa R. Pruitt, *Missing the Mark: Welfare Reform and Rural Poverty*, 10 J. OF GENDER, RACE & JUST. 439, 449 (2007) [hereinafter Pruitt, *Missing the Mark*]. Rural female-headed families with children are twice as likely to be living in poverty as their suburban counterparts. Anastasia R. Snyder & Diane K. McLaughlin, *Female-Headed Families and Poverty in Rural America*, 69 RURAL SOC. 127, 143-46 (2004).
52. See *infra* note 58 and accompanying text.
53. See also *infra* note 67 (discussing public transport deficits).
54. See TAKING STOCK, *supra* note 49, at 19 (noting that while one in five urban residents over the age of twenty-five has a college degree, this is true of only one in eight rural adults in the same age group); Robert M. Gibbs, *Rural Labor Markets in an Era of Welfare Reform*, in RURAL WELFARE REFORM, *supra* note 18, at 56-62 (Tables 2.1-2.4) (showing that about 23% of nonmetro residents over the age of twenty-five do not have high school diplomas, compared to 20% of that age group nationwide); see also Lobao, *Continuity and Change*, *supra* note 40, at 12.
55. Issues of economies of scale are recognized in cases that consider the fairness and appropriateness of state education funding schemes. See, e.g., *Campbell County Sch. Dist. v. State*, 907 P.2d 1238, 1247 (Wyo. 1995) (noting increased cost of education in rural school

While rural places have long been associated with cheap labor and bad jobs,<sup>56</sup> the employment landscape has worsened with the economic restructuring that has swept rural America in recent decades.<sup>57</sup> Male breadwinners have lost their good blue-collar jobs or their livelihoods as farmers as the new staples of rural economies, manufacturing and service jobs, have replaced extractive industries.<sup>58</sup> It is in this context that numerous rural women have made their initial entry into the paid labor force.<sup>59</sup>

Rural labor markets generally have been unkind to women, for whom good jobs have been very limited.<sup>60</sup> Rural women rarely hold jobs comparable to those

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districts). This challenge is also acknowledged with regard to funding social services programs in rural areas. Feyen, *supra* note 18 (noting that human and social service needs tend to go unmet in rural counties because of the “small and dispersed” population); Ann Tickamyer et al., *Where All the Counties Are Above Average, in RURAL WELFARE REFORM*, *supra* note 18, at 236 (describing the disadvantages of rurality in creating jobs, including the difficulty of delivering capital intensive services like education, transportation and childcare).

56. See MORRISTOWN: IN THE AIR AND SUN (Anne Lewis documentary 2007); Lisa R. Pruitt, *Latina/os, Locality and Law in the Rural South*, 12 HARV. LATINO L. REV. (forthcoming 2009) at Part I [hereinafter Pruitt, *Latina/os, Locality*].

57. See Daniel T. Lichter & Diane K. McLaughlin, *Changing Economic Opportunities, Family Structure, and Poverty in Rural Areas*, 60 RURAL SOC. 688, 689 (1995); Christopher D. Merrett & Cynthia Struthers, *Interrogating Globalization: The Impact on Human Rights: Globalization and the Future of Rural Communities in the American Midwest*, 12 TRANSNAT'L L & CONTEMP. PROBS. 33, 51-57 (2002); Barbara Wells, *Women's Voices: Explaining Poverty and Plenty in a Rural Community*, 67 RURAL SOC. 234, 235 (2002). Among the effects of economic restructuring are lower wages and other diminution of the terms and conditions of employment, as well as greater economic stratification between the rich and poor. See Margaret K. Nelson & Joan Smith, *Economic Restructuring, Household Strategies and Gender: A Case Study of a Rural Community*, 24 FEMINIST STUD. 79 (1998).

58. Manufacturing, retail, and public services are the fastest-growing areas of rural economies. They are largely characterized by low-wage and nonunionized jobs. In 2000, manufacturing accounted for 18% of all jobs in nonmetro areas, but 14% nationwide. TAKING STOCK, *supra* note 49, at 18-20; see also Peter T. Kilborn, *In Kansas, a Growing Phone Company Helps Keep a Small Prairie Town Alive*, N.Y. TIMES, Dec. 2, 2003, at A28 (describing a small town that offered tax incentives to attract business as being in a “race to the bottom” that brought low wages and environmental destruction). The causes of this shift include the exhaustion of natural resources (e.g., timber) and economic restructuring, including the globalization of agriculture and other markets. See McNeil, *supra* note 13 and accompanying text; see also Lobao, *Continuity and Change*, *supra* note 40, at 12 (observing that rural areas are harder hit by economic downturns and global competition).

59. See Tickamyer & Henderson, *supra* note 44, at 109, 112-14; Glen H. Elder et al., *Families Under Economic Pressure*, 13 J. FAM. ISSUES 5, 5 (1992); Debra A. Henderson et al., *The Impact of Welfare Reform on the Parenting Role of Women in Rural Communities*, 11 J. CHILD. & POVERTY 131, 131-32 (2005); Ann M. Oberhauser & Anne-Marie Turnage, *A Coalfield Tapestry: Weaving the Socioeconomic Fabric of Women's Lives*, in NEITHER SEPARATE NOR EQUAL: WOMEN, RACE AND CLASS IN THE SOUTH 109 (Barbara E. Smith ed., 1999).

In fact, rural mothers of children under the age of six have long been employed at higher rates than their urban counterparts, although among all women, as of 2004, those in rural areas (60%) were still employed at slightly lower rates than urban women (62%). See KRISTEN SMITH, CARSEY INST., EMPLOYMENT RATES HIGHER AMONG RURAL MOTHERS THAN URBAN MOTHERS 1 (2007), available at [http://www.carseyinstitute.unh.edu/publications/FS\\_ruralmothers\\_07.pdf](http://www.carseyinstitute.unh.edu/publications/FS_ruralmothers_07.pdf).

60. See, e.g., Oberhauser, *Relocating Gender*, *supra* note 44, at 1225-26, 1231-32; Lisa R. Pruitt, *Rural Families and Work-Life Issues*, in SLOAN WORK AND FAMILY ENCYCLOPEDIA, 2008,

of rural men.<sup>61</sup> When they are doing similar work, women are paid only about half of what rural men earn.<sup>62</sup> When compared to their urban counterparts, rural women are even more likely to do low-paying, gender-segregated work,<sup>63</sup> frequently working part time and without benefits.<sup>64</sup> The continuing primacy of rural women's roles as caregivers and homemakers, which persists to a greater degree than in urban areas, aggravates their employment woes.<sup>65</sup>

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[http://wfnetwork.bc.edu/encyclopedia\\_entry.php?id=15186&area=All](http://wfnetwork.bc.edu/encyclopedia_entry.php?id=15186&area=All); Cynthia B. Struthers & Janet L. Bokemeier, *Myths and Realities of Raising Children and Creating Family Life in a Rural County*, 21 J. FAM. ISSUES 17, 42 (2000); Tickamyer & Henderson, *supra* note 44, at 111.

By good jobs, I mean secure jobs that pay a living wage and provide benefits. Rural labor markets have long been associated with informal work, and they are increasingly associated with nonstandard work and underemployment. See Diane K. McLaughlin & Alisha J. Coleman-Jensen, *Nonstandard Employment in the Nonmetropolitan United States*, 73 RURAL SOC. (forthcoming 2008) (defining nonstandard work as including the absence of long-term working relationships and varied work hours); Tim Slack & Leif Jensen, *Race, Ethnicity and Underemployment in Nonmetropolitan America: A 30-Year Profile*, 67 RURAL SOC. 208 (2002); Leif Jensen & Tim Slack, *Beyond Low Wages: Underemployment in America*, in WORK-FAMILY CHALLENGES FOR LOW-INCOME PARENTS AND THEIR CHILDREN (Ann C. Crouter & Alan Booth eds., 2004). Among all rural workers, 15.4% are in "low-wage" jobs compared to 13.5% of all urban workers. WILLIAM O'HARE, CARSEY INST., RURAL WORKERS WOULD BENEFIT MORE THAN URBAN WORKERS FROM AN INCREASE IN THE FEDERAL MINIMUM WAGE 1 (2007), available at [www.carseyinstitute.unh.edu/documents/MinimumWage\\_final.pdf](http://www.carseyinstitute.unh.edu/documents/MinimumWage_final.pdf).

61. For example, rural women are now almost twice as likely as rural men (73% to 39%) to work in manufacturing. TAKING STOCK, *supra* note 49, at 18-19. Thirteen percent of nonmetro women work in manufacturing, compared to 10% of metro women. Gibbs, *supra* note 54, at 59; see also Miewald & McCann, *supra* note 12, at 1050, 1054.
62. See Linda K. Cummins, *Homelessness among Rural Women*, in THE HIDDEN AMERICA, *supra* note 18, at 59, 86; Oberhauser, *Relocating Gender*, *supra* note 44, at 1225-26, 1231-32 (noting that in West Virginia in 2000, women earned fifty-five cents for every dollar men earned); PICKERING, *supra* note 16, at 210-11. While the 2007 American Community Survey by the Census Bureau reported a median household income in metro areas of \$51,831, the median income in nonmetro areas was only \$40,615. CENSUS, INCOME, *supra* note 50. While the earnings gap between metro and nonmetro areas has grown in recent years, reflecting spatial inequalities across the entire economy, gender inequality has diminished. David A. Cotter et al., *Gender Inequality in Nonmetropolitan and Metropolitan Areas*, 61 RURAL SOC. 272, 280, 283 (1996). In metro areas, the improved earnings ratio between men and women is the result of better earnings opportunities for women; in nonmetro areas it is due to declining earnings for men. *Id.* at 282.
63. Manufacturing jobs provide little security because of frequent overseas relocation in this age of globalization. TAKING STOCK, *supra* note 49, at 18; see also MORRISTOWN, *supra* note 56 (depicting the changing employment base and economic fortunes of Morristown, Tennessee, a micropolitan area in the midst of three rural counties in northeast Tennessee). One-third of nonmetro employment is now in consumer service jobs, up from 7% in 1990. TAKING STOCK, *supra* note 49, at 19; see also Don E. Albrecht, *The Industrial Transformation of Farm Communities: Implications for Family Structure and Socioeconomic Conditions*, 63 RURAL SOC. 51 (1998) (finding that economic conditions in rural communities with service-based economies were worse off than those that remained agriculture dependent) [hereinafter Albrecht, *Industrial Transformation*]; Wells, *supra* note 57, at 236; FAST FOOD WOMEN (Headwaters 1991).
64. See, e.g., Oberhauser, *Relocating Gender*, *supra* note 44, at 1226, 1231; Gibbs, *supra* note 54, at 59.
65. See, e.g., Henderson et al., *supra* note 59, at 131 (arguing that rural women are placed in a "catch-22" by simultaneous pressure from welfare reform systems to enter the paid labor market and family policy pressure to maintain "child centered" households); Naples, *supra*

Various structural obstacles also restrict women's labor force participation and shape their status as workers.<sup>66</sup> Long distances separating home, jobs, and services create hardships. Public transport is rare and inefficient,<sup>67</sup> and child care centers are lacking.<sup>68</sup> These same factors contribute to relatively low educational attainment among rural women.<sup>69</sup>

Some scholars posit that rural residents rely on the informal economy to ameliorate economic disadvantages and respond to these structural challenges.<sup>70</sup> In the past, scholars viewed the bartering of goods (e.g., farm produce, clothing) and services (e.g., car repair, child care) among rural residents as a significant survival strategy.<sup>71</sup> Women have been particularly associated with networks of kith and kin engaging in such reciprocity, and these networks have been touted as alleviating the otherwise acute economic disadvantage attendant to limited formal labor markets.<sup>72</sup> However, the extent to which the informal economy

note 15, at 125 (noting conflict women felt when they lived on a farm but worked off of it, trying to be good "farm wives" but also support their families).

66. See, e.g., Oberhauser, *Relocating Gender*, *supra* note 44, at 1226; Ann Oberhauser, *Gender and Household Economic Strategies in Rural Appalachia*, 2 GENDER, PLACE AND CULTURE 51 (1995); Struthers & Bokemeier, *supra* note 60, at 42 (noting that poverty sometimes results from inability to find employment that allows parents to support their families); Tickamyer & Henderson, *supra* note 44, at 110; TAKING STOCK, *supra* note 49, at 21.
67. Less than 10% of all federal funding for public transportation goes to rural areas, and only about 60% of rural counties offer public transportation. United States Department of Agriculture, *Rural Transportation at a Glance*, AGRICULTURE INFORMATION BULLETIN 1, 3 (Jan. 2005), available at [http://www.ers.usda.gov/publications/AIB795/AIB795\\_lowres.pdf](http://www.ers.usda.gov/publications/AIB795/AIB795_lowres.pdf) [hereinafter *Rural Transportation at a Glance*]. Women make up 62% of those using rural public transportation. *Id.* at 4. See also Porter, *supra* note 18, at 1008 (noting that in 2001 rural residents spent 25% of their incomes on transportation, while urban residents spent only 19%); Clifford Krauss, *Rural U.S. Takes Worst Hit as Gas Tops \$4 Average*, N.Y. TIMES, June 9, 2008 at A1.
68. See KRISTEN SMITH, CARSEY INSTITUTE, MORE FAMILIES CHOOSE HOME-BASED CHILD CARE FOR THEIR PRE-SCHOOL AGED CHILDREN, available at [http://carseyinstitute.unh.edu/publications/PB\\_childcare\\_06.pdf](http://carseyinstitute.unh.edu/publications/PB_childcare_06.pdf) (Spring 2006); Tickamyer & Henderson, *supra* note 44, at 112-14. See also Pruitt, *Missing the Mark*, *supra* note 51, at 461-63 (2007) (detailing child care shortages in rural areas); Struthers & Bokemeier, *supra* note 60, at 32-34 (discussing link between difficulty rural mothers have finding child care and the decisions by some to stop working outside the home).
69. Forty-two percent of rural women have a high school education or less; only 24% of urban women have such minimal education. Twenty-six percent completed some college, as opposed to 30% of urban women; 32% graduated from college or went beyond, compared with 45% of metro women. Among nonmetro residents of all genders, only 15% have at least a bachelor's degree, while the national rate is 25%. TAKING STOCK, *supra* note 49, at 16.
70. See, e.g., Oberhauser, *Relocating Gender*, *supra* note 44, at 1221, 1225, 1226 (collecting sources); Struthers & Bokemeier, *supra* note 60, at 25 (reporting details of an empirical study showing that women babysat, canned fruits and vegetables, and cleaned others' homes, while men cut wood and worked on vehicles).
71. JUDITH IVY FIENE, THE SOCIAL REALITY OF A GROUP OF RURAL, LOW-STATUS, APPALACHIAN WOMEN 41 (1993); MARGARET K. NELSON, THE SOCIAL ECONOMY OF SINGLE MOTHERHOOD 63-92 (2005).
72. See SONYA SALAMON, PRAIRIE PATRIMONY 185 (1992) [hereinafter SALAMON, PRAIRIE PATRIMONY]; Ann. R. Tickamyer, *Public Policy and Private Lives: Social and Spatial Dimensions of Women's Poverty and Welfare Policy in the United States*, 84 KY. L.J. 721, 738-739 (1996) [hereinafter Tickamyer, *Private Lives*]; Oberhauser, *Relocating Gender*, *supra* note 44, at 1223, 1225, 1226. These networks have also been associated with the

actually provides material assistance to rural residents is unclear. Despite such networks, data show that the rural economic disadvantage remains significant.<sup>73</sup>

The informal economy is but one consequence of rural spatiality. Another is lack of anonymity among rural residents. Interpersonal familiarity is a product of the high density of acquaintanceship that marks rural communities.<sup>74</sup> The resulting lack of privacy influences individual decision-making and may reinforce traditional thought and behavior patterns. Yet such high levels of social compliance and relative unity of thought are surely under challenge by the demographic and other changes afoot in many parts of rural America.<sup>75</sup>

## 2. The Changing Nature of Rural Community

Just as rural areas have seen dramatic economic change in the last quarter century, they have also experienced social and cultural shifts.<sup>76</sup> While some differences between rural and urban have diminished, meaningful and generalizable distinctions remain. Advances in transportation and communication have somewhat ameliorated geographic isolation in rural areas,<sup>77</sup> but it is unclear whether attendant social and psychological isolation have

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constraints attributed to the spatial isolation of rural areas. *Id.* at 1231.

73. Pruitt, *Missing the Mark*, *supra* note 51, at 475-77. See also SALAMON, PRAIRIE PATRIMONY, *supra* note 72, at 246 (discussing loss of social networks accompanying the demise of rural community).
74. See Louis E. Swanson & David L. Brown, *Challenges Become Opportunities: Trends and Policies Shaping the Future*, in CHALLENGES, *supra* note 34, at 401 (referring to this phenomenon as “involuntary intimacy”); Mormont, *supra* note 9, at 24 (noting familiarity among rural neighbors). See also Pruitt, *Place Matters*, *supra* note 17, at Part II.B.i (collecting sources).
75. Rural communities that become resorts illustrate my point. Telluride, Colorado and Jackson, Wyoming are two examples. These communities’ cultures surely change with the influx of wealthy, urban-oriented residents, at least on a seasonal basis. Like exurbia, they represent a sort of rural gentrification. See *supra* note 41; Lisa R. Pruitt, Legal Ruralism Blog, *Rural Gentrification*, [http://legalruralism.blogspot.com/search/label/rural gentrification](http://legalruralism.blogspot.com/search/label/rural%20gentrification). The influx of ethnic and racial minorities also changes rural cultures. See Pruitt, *Latina/os, Locality*, *supra* note 56, at Part III.C.
76. See Salamon, *Hometown to Nontown*, *supra* note 39, at 1 (noting that the stability and rigidity often praised in rural America are being challenged by people who add diversity moving into rural settings); SALAMON, NEWCOMERS, *supra* note 39 (discussing changes in rural communities brought about by new populations moving in, such as upscale urbanites and people of other ethnic backgrounds). See also Don E. Albrecht & Carol M. Albrecht, *Metro/Nonmetro Residence, Nonmarital Conception, and Conception Outcomes*, 69 RURAL SOC. 430, 433 (2004) (speculating that increasing similarities between rural and urban are attributable to the decline of the family farm and a decreasing rural population) [hereinafter Albrecht & Albrecht, *Conception Outcomes*]; Lobao, *Continuity and Change*, *supra* note 40. Cf. Terry Marsden et al., *Introduction: Questions of Rurality*, 1 in RURAL RESTRUCTURING: GLOBAL PROCESSES AND THEIR RESPONSES 21, 28-41 (Terry Marsden et al. eds., 1990) (suggesting that some characteristics associated with rural areas were never actually unique to such places); Dewey, *supra* note 28, at 60-63 (same; also noting temporal component of urban and rural as referents).
77. Albrecht & Albrecht, *Conception Outcomes*, *supra* note 76, at 433; see also John A Rife, *The Rural Plight: Narrowing the Digital Divide in Rural Localities*, 1 APPALACHIAN J.L. 33 (2002).



significantly abated.<sup>78</sup> To the extent they have not, traditional thought and behavior patterns—including those regarding women and their roles—likely persist.<sup>79</sup>

Studies from the late 1970s and early 1980s suggest that rural residents interact personally with others in their community<sup>80</sup> and that they are slow to alter their traditions and cultural heritage.<sup>81</sup> Sociologists attribute these characteristics, at least in part, to the types of relationships rural people form as a result of population size and density: “a predominance of personal, face-to-face social relationships among similar people”<sup>82</sup> within a rural community lead to “greater levels of consensus on important values and morals.”<sup>83</sup> Another explanation is that urban settings, being larger and more diverse, “foster[] the

78. Cf. Fern K. Willits et al., *Persistence of Rural/Urban Differences*, in RURAL SOCIETY IN THE U.S.: ISSUES FOR THE 1980S 70, 73-74 (Don A. Dillman & Daryl J. Hobbs, eds. 1982) [hereinafter Willits et al.]. The authors of this 1979 study speculated:

Similar television, radio, movie, magazine, and newspaper availability does not guarantee similar impact. Individuals can be selective—watching, listening to, and reading those materials that are most in keeping with their prior values, beliefs, and interests. Selective exposure to alternative ideas also may be brought about by other circumstances . . . . A sense of both superiority and inferiority may provide a kind of psychological isolation to set the rural dweller apart from non-rural counterparts. On the one hand, many ruralites may see themselves as embodying the traditional virtues of America—-independent, self-reliant, God-fearing—and hence superior to their urban cousins. On the other hand, the ruralite may feel inferior in coping with secular, modern, or worldly pursuits.

*Id.* at 74. Sonya Salamon has argued that rural Americans have become more geographically isolated in recent years, as rural areas have lost population and services. Consequently, some rural residents must now travel even greater distances to reach services and visit their neighbors. SALAMON, PRAIRIE PATRIMONY, *supra* note 72, at 40. Judicial decisions occasionally comment on the social isolation of rural residents. *See, e.g., Kakretz v. Kakretz*, 2002 WL 757655, 2002 N.Y. Slip Op. 50145(U) (N.Y. Sup. Jan. 3, 2002) (acknowledging plaintiff’s social isolation after she moved from Russia, as a mail order bride, to her husband’s home in rural New York).

79. Willits et al., *supra* note 78, at 74; *see also* Linda Lobao & Katherine Meyer, *Economic Decline, Gender, and Labor Flexibility in Family-Based Enterprises: Midwestern Farming in the 1980s*, 74 SOC. FORCES 575, 601 (1995) [hereinafter Lobao & Meyer, *Economic Decline*] (noting that gendered division of labor on family farms persists despite economic decline).
80. Willits et al., *supra* note 78, at 70. *See also* David M. Engel, *The Oven Bird’s Song: Insiders, Outsiders and Personal Injuries in an American Community*, 18 LAW & SOC’Y. REV. 551, 556-58, 569, 572-74 (1984) (reporting the familiarity with one another that rural residents said influenced their attitudes about litigation). Judges have occasionally expressed this idea. In a 1974 case, *Stanley v. State*, the judge vividly wrote that a defendant’s bad reputation “arguably took on more substance from the fact that it had . . . sprang . . . from rural soil rather than from the faceless anonymity of an urban swarm.” 313 A.2d 847, 856 n. 7 (Md. 1974) (citing *United States v. Harris*, 403 U.S. 573 (1971)).
81. Willits et al., *supra* note 78, at 70.
82. *Id.* at 79; Mormont, *supra* note 9, at 24 (noting familiarity among rural neighbors).
83. Albrecht & Albrecht, *Conception Outcomes*, *supra* note 76, at 435. The 1979 study by Willits et al. indicated that rural residents are “more traditional in their moral orientation . . . more ideologically religious and conservative in their practices, and more satisfied with their lifestyle” compared to their urban counterparts. It also showed them to be “less accepting of minority rights” and “more likely to oppose federal government.” Willits et al., *supra* note 78, at 72.

generation and acceptance of new ideas.”<sup>84</sup> Norms in urban areas thus change because a “critical mass” of organizationally and occupationally diverse people innovate,<sup>85</sup> while those in more sparsely settled places continue to embrace tradition.<sup>86</sup>

Relatively little empirical evidence is available regarding the extent to which rural folk remain socially, culturally, and politically settled. Again, diversity among (and increasingly within) the nation’s rural areas makes generalizing across the rural populace problematic. Nevertheless, studies spanning a wide geographic swath reveal similarities.<sup>87</sup> Evidence of rural residents’ attachment to place is a recurrent finding,<sup>88</sup> although it is unclear whether this attachment is to networks of kith and kin or to the land itself.<sup>89</sup> While the incidence of divorce and single-parent families is rising in rural areas, families in which the parents have remained married still appear to be more traditional (i.e., gender-conformist) in terms of their division of labor than are urban families.<sup>90</sup> Finally, recent elections have shown rural Americans to be—for the most part—politically conservative.<sup>91</sup>

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84. Willits et al., *supra* note 78.

85. *Id.* at 73-74.

86. *Id.*; see Feyen, *supra* note 18, at 108 (discussing a “conceptual lag . . . in perceiving, understanding, and diagnosis” of social problems, as well as a lack of commitment to addressing them); Naples, *supra* note 15, at 133 (noting that rural communities in the midst of change draw upon “the discourse of agrarianism and traditional values” to make sense of it).

87. See, e.g., Tickamyer & Henderson, *supra* note 44, at 109, 112-13 (noting similarities among rural areas in Appalachia, the Pacific Northwest, and the Midwest in terms of how rural women have responded to economic restructuring).

88. See *id.* at 112-14 (discussing three different rural regions and emphasizing the residents’ “deep-seated local affiliations and loyalties,” lack of willingness to leave their rural homes in spite of greater opportunity in urban areas, ties to family and community, “commitment to the land,” and attachment to rural “land and lifestyle”); Struthers & Bokemeier, *supra* note 60, at 35 (noting that respondents lived in rural area “because they had always lived there” and had family there), and at 42 (noting that a recurring theme among respondents is “place matters”; that is, place defines family life, patterns of inequality, and social opportunities). See also Marsden et al., *supra* note 76, at 1 (noting rurality’s long-time association with “internal solidarity, kinship ties, generational continuity and traditional face-to-face society”).

89. See, e.g., Feyen, *supra* note 18, at 118 (describing one woman’s choice not to leave abusive husband as a desire to maintain roots to the farm). Scholars have documented rural women’s decisions not to move to locales with better opportunities because of their attachment to land and to the lifestyle it represents. See, e.g., Tickamyer & Henderson, *supra* note 44, at 113-14.

90. See Lobao & Meyer, *Economic Decline*, *supra* note 79; Oberhauser, *Relocating Gender*, *supra* note 44; Naples, *supra* note 15. See also Linda Bescher-Donnelly & Leslie Whitener Smith, *The Changing Roles and Status of Rural Women* 167, 169 in *THE FAMILY IN RURAL SOCIETY* (Raymond T. Coward & William M. Smith, Jr. eds., 1981) [hereinafter Bescher-Donnelly & Smith] (noting that rural women appear to maintain “a more traditional sex-role ideology”).

91. News Release, W.K. Kellogg Found., Cultural Issues in Rural America Gave Republicans a Wide Margin of Success in Recent Election: Gender Gap Narrower Among Rural Voters, Rural Voter Study Shows (Dec. 12, 2002), available at <http://www.wkkf.org/> (enter “Cultural Issues” in the search box and click “Search”; then follow “W.K. Kellogg Foundation: Press Release: Cultural Issues” hyperlink); Seth C. McKee, *Rural Voters in Presidential Elections, 1992-2004*, 5 *THE FORUM* (2007); but see *Morning Edition*:

Though various details of rural social and cultural change remain undocumented, many rural communities are undergoing demographic transformation.<sup>92</sup> Although most rural areas experienced slow population losses during much of the twentieth century,<sup>93</sup> many regained population during the 1970s and again in the 1990s.<sup>94</sup> Reverse migration is bringing city dwellers to the country.<sup>95</sup> Such migration, along with immigration, accounts for most of that growth.<sup>96</sup> Immigration is also diminishing the racial and ethnic homogeneity long associated with rural communities.<sup>97</sup>

With regard to family structure and women's roles, both change and stasis are evident. On one hand, rates of divorce, teen pregnancy, and unmarried cohabitation are rising in rural areas.<sup>98</sup> Birth rates,<sup>99</sup> employment rates among women,<sup>100</sup> and the number of female-headed households<sup>101</sup> are now similar

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*Candidates Forego Assembly of Rural Voters* (NPR broadcast June 27, 2007), available at <http://www.npr.org/templates/story/story.php?storyId=11457394> (noting that rural voters are dissatisfied with Republican leadership and may be "up for grabs") [hereinafter *Morning Edition: Candidates*]; Scott Helman, *Edwards Campaign Slams Clinton Push for Rural Vote*, BOSTON GLOBE, Oct. 19, 2007, available at LEXIS, News Library, The Boston Globe File; Howard Berkes, *Poll: McCain Lost Key Rural Support in Early October* (NPR broadcast Oct. 23, 2008), available at <http://www.npr.org/templates/story/story.php?storyId=96008609>.

92. See, e.g., Pruitt, *Latina/os, Locality*, *supra* note 56; Salamon, *Hometown to Nontown*, *supra* note 39, at 2-3 (noting that those moving into rural settings do so for various reasons, including retirement and a desire for a slower-paced life, even at the cost of long commutes); Rick Lyman, *In Exurbs, Life Framed by Hours Spent in the Car*, N.Y. TIMES, Dec. 18, 2005.
93. Some of these population losses were associated with changes in agricultural production and other economic shifts. See generally Albrecht, *Industrial Transformation*, *supra* note 63, at 51-52; Naples, *supra* note 15, at 112-13.
94. Kenneth M. Johnson, *Unpredictable Directions of Rural Population Growth and Migration*, in CHALLENGES, *supra* note 34, at 19.
95. *Id.* at 20-21. In the 1970s, 3.1 million metro residents migrated to nonmetro areas. The nonmetro population grew by 5.2 million (10.3%) during the 1990s. *Id.* People under age 65, not only retirees, accounted for most of the population gain in rural areas. *Id.* at 26.
96. *Id.* at 22-23 (noting that migration accounted for 67% of the nonmetro population increase).
97. Minorities were a prominent factor of growth in nonmetro regions, constituting at least 40% of overall growth in every nonmetro region. Johnson, *supra* note 94, at 19, 25. The Latino population tripled in the South and doubled in the Midwest. Rogelio Saenz & Cruz C. Torres, *Latinos in Rural America*, in CHALLENGES, *supra* note 34, at 57, 58. By 2000, one in eight Latino residents in the American South and Midwest lived in a nonmetro area. *Id.* at 59. Immigrants go for the low-paying jobs long associated with rural economies. While jobs associated with rural economies have long offered poor pay, rural restructuring has brought different low-wage jobs to rural areas. See MORRISTOWN, *supra* note 55; Pruitt, *Latina/os, Locality*, *supra* note 56.
98. Daniel T. Lichter & Leif Jensen, *Rural America in Transition: Poverty and Welfare at the Turn of the Twenty-First Century*, in RURAL DIMENSIONS OF WELFARE REFORM 77, at 83, 87 (Bruce A. Weber et al. eds., 2002).
99. Albrecht & Albrecht, *Conception Outcomes*, *supra* note 76, at 435. See also Katherine MacTavish & Sonya Salamon, *What Do Rural Families Look Like Today?* in CHALLENGES, *supra* note 34, at 73 (suggesting that demographic changes which indicate diminishing differences between rural and urban families emerged as early as the late 1980s).
100. Cotter, *supra* note 62, at 282; see also J. Brian Brown & Daniel T. Lichter, *Poverty, Welfare, and the Livelihood Strategies of Non-metropolitan Single Mothers*, 69 RURAL SOC. 282, 295 (2004) (observing that rural women are often "under-employed"); Tickamyer & Henderson, *supra* note 44, at 112-14; Elder et al., *supra* note 59, at 5; Oberhauser & Turnage, *supra* note 59; FAST FOOD WOMEN, *supra* note 63.

across metro and nonmetro areas.<sup>102</sup> On the other hand, rural women still marry younger and at a greater rate than their urban counterparts,<sup>103</sup> still place greatest value in their homemaking and mothering roles,<sup>104</sup> and are less likely than their urban counterparts to terminate a pregnancy.<sup>105</sup>

### C. Summary

Rural women, like other rural residents, have seen great change in the last quarter century.<sup>106</sup> Buffeted by economic restructuring, many have entered the paid workforce or have otherwise increased their economic activity. Still, rural populations tend to be more conservative,<sup>107</sup> with patriarchal attitudes and

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101. Lichter & Jensen, *supra* note 98, at 83 (providing breakdowns according to race). *See also* Diane K. McLaughlin et al., *Economic Restructuring and Changing Prevalence of Female-headed Families in America*, 64 RURAL SOC. 394 (1999) (suggesting links between economic restructuring and the prevalence of female-headed families, but finding those links to be less clear in rural areas). Five percent of nonmetro residents (1 million people) report living in households with an unmarried partner. About 87,000 nonmetro residents (less than 1 percent) are in same-sex partner households. TAKING STOCK, *supra* note 49, at 16.
102. A 2004 study concluded that rural and suburban families remain more traditional than those in central cities. *See Snyder & McLaughlin, supra* note 51, at 146. The study compared family structures across rural, suburban, and central city areas in 1980, 1990, and 2000 and found that rural and suburban families were more likely to have married parents. *Id.* at 146. It also noted that
- [c]ompared to those in metropolitan areas, nonmetro females experience many family-related transitions at earlier median ages. For example, nonmetro females are more likely to ever marry and less likely to ever divorce . . . are more likely to marry at younger ages, are less likely to cohabit . . . and have higher fertility rates during their teens and early 20's.
- Id.* at 129 (citations omitted).
103. Struthers & Bokemeier, *supra* note 60, at 34.
104. *See* FIENE, *supra* note 71, at 41-42; Struthers & Bokemeier, *supra* note 60, at 25, 28. *But see* Naples, *supra* note 15, at 126 (observing contradiction between women's traditional roles and the fulfillment they find in the paid labor force).
105. *See* Albrecht & Albrecht, *Conception Outcomes, supra* note 76, at 444, 447. Unmarried rural women who become pregnant are also more likely to marry before the baby's birth. *Id.* Attitudes about abortion are generally more negative among rural women as compared to their urban counterparts. *See, e.g.,* FIENE, *supra* note 71, at 44-45 (indicating Kentucky women's rejection of abortion even when the pregnancy results from rape). Rural women are significantly more likely to support pro-life rather than pro-choice candidates. PUB. OPINION STRATEGIES & GREENBERG QUINLAN ROSNER RESEARCH, REPORT FOR THE W.K. KELLOGG FOUND., ELECTION 2002: RURAL VOTER AND RURAL ISSUES 36-37 (2002), available at [http://www.wkkf.org/DesktopModules/WKF.00\\_DmaSupport/ViewDoc.aspx?fld=PDFFile&CID=4&ListID=28&ItemID=43791&LanguageID=0](http://www.wkkf.org/DesktopModules/WKF.00_DmaSupport/ViewDoc.aspx?fld=PDFFile&CID=4&ListID=28&ItemID=43791&LanguageID=0) [hereinafter PUB. OPINION STRATEGIES].
106. *See* Tickamyer & Henderson, *supra* note 44, at 109 (observing that "women's actual work and activity" have changed less in recent decades than has how scholars view these women. Now scholars view women as spatially and culturally diverse in their choices and constraints).
107. *See* PUB. OPINION STRATEGIES, *supra* note 105, at 37 ("Rural women are actually stronger GOP partisans than their male counterparts, are more supportive of conservative religious groups, [and] are more conservative than non-rural men on self-reported ideology . . .") *But see Morning Edition: Candidates, supra* note 91.

accompanying traditional gender roles deeply entrenched.<sup>108</sup> For the most part, entry into formal labor markets (and increased economic activity of other types) has not alleviated rural women's economic marginality; nor, for those married, has it significantly decreased their financial dependence on their husbands.

The next Part outlines the basics of critical geography. I explore how scholars can use the concepts of space, place, and scale to theorize rural women's situation based on empirical data, thereby enhancing our understanding of the difference rurality makes to women's lives. The next section also begins to analyze links between critical geography and law in relation to rural women's livelihoods. In doing so, it both undergirds and builds upon my earlier work about law's misapprehension of rural difference and its relevance to gender issues.<sup>109</sup>

### III. CRITICAL GEOGRAPHY AND RURAL WOMEN

Space, place, and scale are the primary analytical tools of critical geographers. "Space" is the most universal, abstract concept of the three, while "place" and "scale" are subsets of space.<sup>110</sup> Space and place implicate each other, and their meanings sometimes merge.<sup>111</sup> Between the two, however, place is the more grounded concept, focusing on a particular locale. Scale measures space and place.<sup>112</sup> The following section discusses each tool and begins to explore the ways in which they may elucidate female rural livelihoods, including the ways in which the law either regulates them, or is absent altogether.

#### A. Space

"[S]pace is fundamental in any exercise of power."<sup>113</sup>

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108. See *supra* notes 103-05 and accompanying text. Linda Lobao has similarly referred to the "association of rurality with traditional forms of masculinity" and written of the "long-standing association of rural areas with . . . being a 'man's man.'" Linda Lobao, *Gendered Places and Place-Based Gender Identities*, 267, 269, 272 in *COUNTRY BOYS: MASCULINITY IN RURAL LIFE* (Hugh Campbell et al. eds., 2006) [hereinafter Lobao, *Gendered Places*]. She also writes of "highly masculinized rural places," suggesting—consistent with my analysis above—that some rural places are more traditional than others in terms of their patriarchal structures. *Id.* at 272.
109. See Pruitt, *Feminist Theory of the Rural*, *supra* note 6.
110. See Tickamyer, *Space Matters!*, *supra* note 11, at 806 ("Space can be conceptualized in three ways: as *place*—the particular locale or setting; as *relational units* that organize ideas about places and implicitly or explicitly compare locations; and as *scale*, or the size of the units to be compared.").
111. YI-FU TUAN, *SPACE AND PLACE: THE PERSPECTIVE OF LIVED EXPERIENCE* 3 (1977). As Hari Osofsky has expressed it, "place and space become windows into one another." Hari M. Osofsky, *Climate Change Litigation as Pluralist Legal Dialogue?*, 26 *STAN. ENVTL. L.J. & 43A STAN. J. INT'L L.* 181, 189 (2007) (joint issue) [hereinafter Osofsky, *Litigation as Pluralist Dialogue*].
112. Tickamyer, *Space Matters!*, *supra* note 11, at 811.
113. SOJA, *POSTMODERN GEOGRAPHIES*, *supra* note 1, at 19 (citing P. Rabinow, *Space, Knowledge, and Power*, 239-56 in *THE FOUCAULT READER* (P. Rabinow ed. 1984)). Space is used to refer to real, imaginary, and symbolic spaces. *Id.*

Critical geographers assert that understanding how society evolves requires reference to spatiality.<sup>114</sup> Postmodern geographer Edward Soja explains spatiality and emphasizes its importance by juxtaposing space with time, situating geography next to history.<sup>115</sup> In the context of critical geography, “spatiality” refers to this two-way process by which society creates space, even as space shapes or constructs society.<sup>116</sup> For example, geographers Janet Kodras and John Paul Jones have asserted that individuals consider the enabling and disabling features of space in their decision-making, even as their own actions modify spatial structures.<sup>117</sup> Institutions, networks, and individuals are thus spatiality’s agents,<sup>118</sup> engaged in ongoing “struggle, conflict and contradiction.”<sup>119</sup> Rural sociologist Marc Mormont has similarly observed that “social identity exists primarily in *relation* to space . . . because it is by the practical apprehension of a structured space that the individual first becomes aware of the world and learns to define his or her position within it.”<sup>120</sup> He sees rurality as “socially constructed . . . borne and interpreted by social agents.”<sup>121</sup> At the same time, society “takes form in space” and is “constituted in and by space.”<sup>122</sup> Space both contains and actively shapes social processes,<sup>123</sup> as “social phenomena are necessarily spatial phenomena.”<sup>124</sup> Soja emphasizes space’s abstract nature by differentiating it from its more concrete companion, place, which is “the physical space of material nature.”<sup>125</sup>

I noted above the spatial characteristics associated with the rural, and I have elsewhere theorized the legal relevance of rurality to women’s lives. I have argued, for example, that geography, like various markers of identity, can be accommodated within anti-essentialist feminism.<sup>126</sup> I have also demonstrated the legal relevance of spatial isolation to domestic violence, termination of parental

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114. *Introduction*, in GEOGRAPHIC DIMENSIONS OF UNITED STATES SOCIAL POLICY, 24-25 (Janet Kodras & John Paul Jones eds. 1990) [hereinafter Kodras & Jones].

115. Soja writes: “Just as space, time and matter delineate and encompass the essential qualities of the physical world, spatiality, temporality, and social being can be seen as the abstract dimensions which together comprise all facets of human existence.” SOJA, POSTMODERN GEOGRAPHIES, *supra* note 1, at 25.

116. The “process of ‘spatiality,’” Soja explains, is “the idea of space as socially produced.” Edward Soja, *The Spatiality of Social Life: Towards a Transformative Retheorisation*, in SOCIAL RELATIONS AND SPATIAL STRUCTURES 92-93 (D. Gregory & J. Urry eds., 1985), *quoted in* Elizabeth Teather, *Contesting Rurality: Country Women’s Social and Political Networks*, in GENDER AND RURALITY 31, 32 (Sarah Whatmore et al. eds., 1994).

117. *Id.*

118. Teather, *supra* note 116, at 33. *See also* Miewald & McCann, *supra* note 12, at 1045-46 (observing that individuals and communities are “not passive objects of restructuring processes” but the characteristics of particular places are “negotiated and struggled over”).

119. Teather, *supra* note 116, at 34 (quoting Soja, *Spatiality of Social Life*, *supra* note 116).

120. Mormont, *supra* note 9, at 36.

121. *Id.* at 36.

122. Kodras & Jones, *supra* note 114, at 24-25.

123. *Id.*

124. *Id.*

125. SOJA, POSTMODERN GEOGRAPHIES, *supra* note 1, at 120.

126. *See* Pruitt, *Feminist Theory of the Rural*, *supra* note 6, at 437-41.

rights, and the undue burden standard for regulation of abortion.<sup>127</sup> In the context of domestic violence, for example, spatial isolation from sources of assistance, including neighbors and law enforcement, may aggravate the vulnerability and helplessness that a woman feels in the face of an abusive partner.<sup>128</sup> Such vulnerability may lead her to capitulate to his coercion under duress,<sup>129</sup> or to kill him because she has no other way to protect herself.<sup>130</sup> Rural spatiality is also relevant for a woman seeking an abortion. Given that 87% of U.S. counties have no abortion provider,<sup>131</sup> she may well be deterred, or literally unable, to get one if a mandatory waiting period requires that she travel not once, but twice, for many hours to reach an abortion provider.<sup>132</sup> Physical distance from jobs, opportunities, services, and other people can thus profoundly influence both everyday decision-making and life course, including at the critical junctures where rural women encounter the law.<sup>133</sup>

The lack of anonymity that flows from spatial isolation and low population density also circumscribe rural women's autonomy.<sup>134</sup> Such diminished privacy may, for example, deter women from reporting crimes, especially those within families, because law enforcement, prosecutorial, and judicial officials are also neighbors, acquaintances, and even friends or family.<sup>135</sup> This familiarity among community members may be particularly influential with regard to matters such as sexual issues and the family, which are generally considered private.<sup>136</sup>

Again, abortion regulations illustrate how law fails to recognize rural difference in relation to social dynamics. State abortion laws may, for example, require a parent's consent to a minor's abortion, but provide for judicial bypass of that consent requirement under certain circumstances.<sup>137</sup> However, when the

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127. *Id.* at 442-82.

128. *Id.* at 444-53.

129. *Id.* at 445-48 (discussing *Swails v. State*, 986 S.W. 41 (Tex. App. 1999)).

130. See Pruitt, *Place Matters*, *supra* note 17.

131. See Rachel K. Jones et al., *Abortion in the United States: Incidence and Access to Services, 2005*, 40 PERSPECTIVES ON SEXUAL & REPRODUCTIVE HEALTH 6, 15 (2008), available at <http://www.gutmacher.org/pubs/journals/4000608.pdf>. See also Brief of Amici Curiae of the NAACP Legal Def. & Educ. Fund, Inc. et al. in Support of Planned Parenthood of Se. Pennsylvania at 20-21, *Casey*, 505 U.S. 833 (Nos. 91-744, 91-902), 1992 WL 12006401 (reporting that as of 1985, 82% of all U.S. counties had no abortion provider).

132. Pruitt, *Feminist Theory of the Rural*, *supra* note 6, at 463-77.

133. Physical distances are a particular problem for women, who generally have fewer resources to overcome the adversity created by spatial isolation, and who are already vulnerable to a variety of economic and physical harms. See Diane Pearce, *The Feminization of Poverty: Women, Work and Welfare*, 11 URB. & SOC. CHANGE REV. 28, 28-30 (1978) (noting that for many occupational sectors, the "demand for cheap labor and the demand for female labor became synonymous"); Weissman, *supra* note 16, at 416-17 (noting that communities with difficult economic conditions have higher rates of domestic violence).

134. See Pruitt, *Place Matters*, *supra* note 17 at Part II.B.i; *supra* notes 74-75 and accompanying text.

135. See Pruitt, *Place Matters*, *supra* note 17.

136. Pruitt, *Feminist Theory of the Rural*, *supra* note 6, at 467-82, esp. 482 (discussing judicial treatment of post-*Casey* restrictions on abortion).

137. *Id.* at 478-79.

minor is a resident in the same small community where the judicial officer resides, her acquaintance with the officer is likely to deter her from seeking permission.<sup>138</sup> Traveling to another judicial district creates logistical obstacles similar to those facing any rural resident who must travel to a neighboring county or population center, especially because she must do so surreptitiously.

Spatial isolation and the lack of anonymity it fosters are just two consequences of the spatial characteristics of rural areas. Both are relevant to a range of legal issues. The following sections discuss additional ways in which space can enable or disable rural women as they negotiate the struggles of their everyday lives.

### 1. Spaces of Dependence

Some of geographers' theorizing about spatiality and society is relevant to rural women. David Harvey, for example, locates "the politics of space . . . in the contradiction between mobility and immobility."<sup>139</sup> Kevin Cox builds on Harvey's work to articulate the concept of "spaces of dependence," which is the idea that some socio-spatial relationships are interchangeable within a given space but difficult or impossible outside of that space.<sup>140</sup> As an example, Cox hypothesizes a high-end housing developer who acquires knowledge of a local market's subcontractors, builders, and lenders. The developer's knowledge and reputation is "spatially circumscribed" by the local housing market. *Where* the developer initiates projects does not matter, as long as it is within that geographical area.<sup>141</sup> His reputation and knowledge are not "portable" to another; his networks make it a space of dependence for him.<sup>142</sup>

Feminists and ruralists could use this concept of spaces of dependence, for example, to theorize the lack of mobility among rural women and the reasons for it. As noted above, rural people are generally more attached to place than their

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138. *Id.* at 478-80.

139. Kevin R. Cox, *Spaces of Dependence, Spaces of Engagement and the Politics of Scale, or: Looking for Local Politics*, 17 *POL. GEOGRAPHY* 1, 4 (1998) (discussing DAVID HARVEY, *THE LIMITS TO CAPITAL*, ch. 13 (1982)); David Harvey, *The Geopolitics of Capitalism, in SOCIAL RELATIONS AND SPATIAL STRUCTURES*, *supra* note 116; DAVID HARVEY, *THE URBANIZATION OF CAPITAL* (1985)). That is, capital exists in immobile, spatially fixed forms, "such as factories, worker skills, social and physical infrastructures," as well as in mobile forms, such as money. *Id.* Both are relevant to understanding where and how economic growth and development occurs.

140. Cox, *supra* note 139, at 5. As a related idea, Cox writes: "For workers, a particular labor market may be a necessary condition for them being workers. But for one it may be a question of spousal employment, for another a house that would be difficult to sell and yet another, an age close to that of retirement, which makes not simply leaving a particular place but a particular employer highly problematic." *Id.* at 4. For rural residents, attachment to place may be the limiting factor that binds them to a particular labor market, while that labor market features its own limitations. *See infra* Part III.B (discussing limitations on rural women's mobility and the impact on their employability and employment options).

141. *Id.*

142. *Id.*



urban or suburban counterparts.<sup>143</sup> Empirical research shows that rural women rely heavily on social networks for material assistance<sup>144</sup> (e.g., babysitting services, transportation, and even assistance with paying bills),<sup>145</sup> as well as social and emotional support.<sup>146</sup>

The difficulty of establishing new networks in a different locale may make rural women reluctant to give up existing ties, thus profoundly influencing the course of their lives.<sup>147</sup> Yet laws and policies that encourage relocation ignore the significance of such networks.<sup>148</sup> In the context of termination of parental

143. See Tickamyer & Henderson, *supra* note 44, at 112-14 (emphasizing in discussion of three different rural regions the residents' "deep-seated local affiliations and loyalties," lack of willingness to leave their rural homes in spite of greater opportunity in urban areas, ties to family, and community and "commitment to the land that make[s] relocation" undesirable, and attachment to rural "land and lifestyle").

Rural residents are less likely to move than metro residents. TAKING STOCK, *supra* note 49, at 16. This attachment to place may be linked to rural residents' historical attachment to their land. See Mormont, *supra* note 9, at 34; Paul S. Taylor, *Public Policy and the Shaping of Rural Society*, 20 S.D. L. REV. 475, 497 (1975); William M. Smith, Jr. & Raymond T. Coward, *The Family in Rural Society: Images of the Future* in THE FAMILY IN RURAL SOCIETY 221, 225 (Raymond T. Coward & William M. Smith Jr., eds. 1981).

144. I have argued elsewhere that the informal economy associated with such networks is overrated in terms of its ability to provide an effective safety net for the rural poor. See Pruitt, *Missing the Mark*, *supra* note 51, 475-77; Pruitt, *Feminist Theory of the Rural*, *supra* note 6, at 135-36 (arguing that such networks are increasingly fragile and temporary as single parenthood increases and family-based and social support networks diminish in significance) (citing Janet M. Fitchen, *Rural Poverty in the Northeast: The Case of Upstate New York*, in RURAL POVERTY IN AMERICA 177, 195 (Cynthia M. Duncan ed. 1992)); see also SALAMON, PRAIRIE PATRIMONY, *supra* note 72, at 246 (discussing loss of social networks accompanying the demise of rural community); Feyen, *supra* note 18, at 112-13 (noting the significance of church-based networks for rural women, whereas men's networks might be elsewhere, such as "at the feed mill or the implement dealer").

145. See, e.g., MARGARET K. NELSON, THE SOCIAL ECONOMY OF SINGLE MOTHERHOOD 75 (2005); Bonnie T. Dill & Bruce B. Williams, *Race, Gender, and Poverty in the Rural South: African American Single Mothers*, in RURAL POVERTY IN AMERICA 97, 106 (Cynthia Duncan ed., 1992) (describing networks among black single mothers in rural Mississippi and Tennessee).

146. Tickamyer, *Private Lives*, *supra* note 72, at 738 (asserting that such networks can provide "relief from the daily hardships of grinding poverty"); Miewald & McCann, *supra* note 12, at 1058 (discussing the importance of kinship networks in rural Appalachian culture); Struthers & Bokemeier, *supra* note 60, at 18 (noting the import of "formal and informal connections to others" by rural families, who are "intricately connected through a web of social relations").

One scholar has suggested that the "minimal presence of formal helping systems, for example, social services, can explain the extensive development of informal relationships among rural Americans." THE HIDDEN AMERICA, *supra* note 18, at 16-17 (discussing significance of networks and lack of anonymity in situations of domestic violence). See also Oberhauser, *Relocating Gender*, *supra* note 44, at 1226-29 (discussing the significance of network to a group of women engaged in cottage industry knitting work); Naples, *supra* note 15, at 125-26 (discussing the value women attributed to the networks they developed when they worked outside the home).

147. Tickamyer, *Private Lives*, *supra* note 72, at 738-39; see also Naples, *supra* note 15, at 125-26; Struthers & Bokemeier, *supra* note 60, at 35; Miewald & McCann, *supra* note 12, at 1058.

148. Tickamyer, *Private Lives*, *supra* note 72, at 739 (noting welfare policy as an example); see also Tickamyer & Henderson, *supra* note 44, at 112 (questioning repeatedly why rural women do not migrate from rural areas to places with greater opportunity).

rights, for example, courts and social service agencies have sometimes used the rural locale of a woman's home against her, suggesting that she should move to a city to avail herself of better work and housing opportunities.<sup>149</sup> Such legal actors misunderstand the significance of rural women's networks and underestimate the cost of losing and recreating them. Their urban bias is evident when they treat these critical spaces of dependence as legally irrelevant.

## 2. Spaces of Production and Reproduction: The Public/Private Divide as a Geographical Construct

Gendered divisions of labor, along with the gendered nature of the home and market have long been subjects of feminist scholarship. Whereas traditional scholarship has focused on production in the market place (coded male), feminists have successfully garnered attention to social reproduction in the home (coded female).<sup>150</sup> The public/private dichotomy and separate spheres ideology thus became familiar constructs of feminist analysis,<sup>151</sup> even as their limitations were acknowledged.<sup>152</sup>

Geographers and other scholars sometimes analyze these spheres in spatial terms.<sup>153</sup> Rural sociologist Ann Tickamyer's comment is illustrative:

Discovering spatiality . . . can be further specified by reference to public-private distinctions between and within all social institutions. Feminist scholars have noted a spatial division of labor prevailing to some degree or another in all industrialized societies in which men dominate public space (political, civic, and economic arenas) and women occupy private space (household, family, and other sites of reproductive activity), thus "gendering" space.<sup>154</sup>

Spatial segregation between the home and the workplace, as well as within these and other institutions, reinforces gender stratification.<sup>155</sup> In other words,

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149. See Pruitt, *Feminist Theory of the Rural*, *supra* note 6, at 454-55.

150. See *supra* notes 3-5 (collecting sources).

151. See, e.g., Linda K. Kerber, et. al., *Beyond Roles, Beyond Spheres: Thinking about Gender in the Early Republic*, 46 WM. & MARY Q. 565 (1989).

152. See Olsen, *supra* note 4, at 1566.

153. Linda McDowell has written of geographers who have noted the "prominence of spatial references in contemporary feminist writing. In particular the work of women who feel 'outside' the conventional norms of society, migrant women, women of colour, lesbians for example, is saturated with spatial imagery in their discussions of transgressing boundaries in their struggle to find a place." Linda McDowell, *Space, Place and Gender Relations: Part II. Identity, Difference, Feminist Geometries and Geographies*, 17 PROGRESS HUM. GEOGRAPHY 305 (1993) (citations omitted). Also interesting is Tickamyer's catalog of the use of spatial terms to express aspatial concepts: social landscapes, segmented labor markets, embedded institutions, career ladders, and cyberspace. Tickamyer, *Space Matters!*, *supra* note 11, at 807.

154. Tickamyer, *Private Lives*, *supra* note 72, at 740 (citing DOROTHY SMITH, *THE EVERYDAY WORLD AS PROBLEMATIC: A FEMINIST SOCIOLOGY* (1987)). Scholars have also identified a correlation between "low status" and a high degree of public-private differentiation. *Id.*

155. *Id.* at 738.

who does what, and where, reflects a spatial division of labor that is closely intertwined with the gender division of labor.<sup>156</sup> By relegating women to a sphere that is both conceptually and spatially private, society limits their access to knowledge and power.<sup>157</sup> Feminist geographer Doreen Massey has observed that the distinction between public and private is “[o]ne of the most evident aspects of this joint control of spatiality and identity.”<sup>158</sup> The attempt to confine women to the domestic sphere has been not only a spatial control, but also a social control on identity.<sup>159</sup> Massey observes how the familiar expression “women’s place” emphasizes the “importance of the *spatial separation* of home and workplace.”<sup>160</sup> The expression also demonstrates how spaces and places transmit gendered messages, and how “they both reflect and affect the ways in which gender is constructed and understood.”<sup>161</sup>

Feminist architects, planners, anthropologists, geographers, and sociologists have all used spatiality to illustrate the correlation between degrees of gender segregation and degrees of spatial segregation.<sup>162</sup> Feminist geographers have employed spatial concepts, for example, to theorize urban and suburban women’s tendencies to accept less desirable jobs that permit them to work close to home, the site of their reproductive activities.<sup>163</sup>

While spatial concepts have rarely had voice in law,<sup>164</sup> they are gaining a foothold.<sup>165</sup> Professor Katharine Silbaugh, for example, recently brought critical geography into feminist legal scholarship, arguing that we should attend to the

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156. *Id.*

157. Tickamyer argues that “sources of knowledge . . . provide[ ] the basis for power,” and gender stratification makes knowledge that is most valued “most readily available to men”, while “spatial segregation reinforces differential access.” *Id.* at 740-41 (citing SPAIN, *supra* note 7, at 15-21).

158. MASSEY, *supra* note 7, at 179-80.

159. *Id.*

160. *Id.*

161. *Id.*

162. Tickamyer, *Private Lives*, *supra* note 72, at 738 (relating universal asymmetries in the actual activities and cultural evaluations of men and women to a universal opposition between domestic and public spheres).

163. See SUSAN HANSON & GERALDINE PRATT, GENDER, WORK & SPACE (1995) [hereinafter HANSON & PRATT, GENDER, WORK & SPACE]; Susan Hanson & Geraldine Pratt, *Geographic Perspectives on the Occupational Segregation of Women*, 6 NAT’L GEOGRAPHIC RES. 376, 380-83 (1990) [hereinafter Hanson & Pratt, *Geographic Perspectives*].

164. I borrow this phrase from Ann Tickamyer, who asserts that “space and place are still struggling to find their voice in sociology.” Tickamyer, *Space Matters!*, *supra* note 11, at 807.

165. See, e.g., Keith Aoki, *Space Invaders: Critical Geography, the “Third World” in International Law and Critical Race Theory*, 45 VILL. L. REV. 913 (2000); Paul Schiff Berman, *The Globalization of Jurisdiction*, 151 U. PA. L. REV. 311 (2002); Kal Raustiala, *The Geography of Justice*, 73 FORDHAM L. REV. 2501 (2005); Richard Thompson Ford, *Law’s Territory (A History of Jurisdiction)*, 97 MICH. L. REV. 843 (1999); Robert R.M. Verchick, *Critical Space Theory: Keeping Local Geography in American and European Environmental Law*, 73 TUL. L. REV. 739 (1999); see also, *supra* note 7 and accompanying sources.

“gender of sprawl.”<sup>166</sup> Because sprawl contributes to the distance between where women work and where their homes and children are, she discusses its salience to the work-family debate that has so engaged feminist scholars in recent years.<sup>167</sup>

Like their urban and suburban counterparts, rural women prefer economic opportunities close to their homes,<sup>168</sup> yet they have fewer options.<sup>169</sup> Some may have none. Indeed, while economists lament the inefficiency of distances between home and work in reference to urban and suburban places, such distances are deeply implicated in rural living.<sup>170</sup> Imagine, for example, a woman living in a place so remote that even the closest Wal-Mart or McDonald’s is 30 miles away—or more. Assume that no public transportation is available. For her, working outside the home requires reliable access to a vehicle and personal circumstances that permit a long commute. Young children further complicate her situation. Home-based work such as an in-home day care may not be possible, depending on her distance from would-be clients. A poor communication infrastructure may also prevent work from home, as in a telephone-based customer service job.<sup>171</sup>

Like other women, then, those living in rural areas are engaged in spatial balancing, but with additional constraints. Literal, physical space works against them. So do its consequences: lack of good jobs due to isolation from centers of commerce and deficits in human capital, a dearth of services (e.g., child care), and inadequate infrastructure (e.g., good roads, public transportation, high-speed

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166. Silbaugh, *supra* note 7, at 1799. Drawing on the work of feminist planners and architects, she identifies single-family living arrangements as another culprit. *Id.* at 1800; see also Katharine Baird Silbaugh, *Wal-Mart’s Other Woman Problem: Sprawl and Work-Family Balance*, 39 CONN. L. REV. 1713 (2007).

167. Silbaugh, *supra* note 7, at 1851. She notes, for example, the role of suburban women who transport their children to various events, invoking the “soccer mom” image. Middle-class rural families have somewhat similar concerns about transporting their children long distances to extracurricular events, but for rural families, distances are often prohibitive, resulting in lack of access altogether. See Struthers & Bokemeier, *supra* note 60, at 43.

168. See, e.g., Oberhauser, *Relocating Gender*, *supra* note 44, at 1233-34 (reporting study of a network of knitters who worked in their homes to earn money in the wake of loss of mining jobs in Appalachia; many chose this opportunity because of the dearth of choices in their local labor market); Tickamyer, *Private Lives*, *supra* note 72, at 738.

169. See, e.g., Tickamyer & Henderson, *supra* note 44, at 111; Feyen, *supra* note 18, at 101, 110; PICKERING, *supra* note 16, at 210 (discussing poor availability of jobs in persistently poor counties). See also *supra* notes 52-69 and accompanying text.

170. The average rural resident travels 14 miles to work, whereas her urban counterpart travels 10.6 miles. Federal Highway Administration, Highway Statistics 2006, <http://www.fhwa.dot.gov/policy/ohim/hs06/htm/nt5.htm> (last visited Feb. 20, 2008).

171. See Kenneth Pigg, Telecommunications and Rural Revitalization 3 (Oct. 22-25, 2006) (paper submitted to the 2006 Annual Rural Telecommunications Congress Meeting, Little Rock, AR), available at <http://www.ruraltelecon.org/index.php?q=node/31> (arguing that telecommunication infrastructure in rural communities has not reached its “transformational” potential and must be further harnessed before rural communities can compete in the global economy); Steve Lohr, *Libraries Wired, and Reborn*, N.Y. TIMES, Apr. 22, 2004, at G1 (discussing the lack of internet access in rural communities); RONALD R. KLINE, CONSUMERS IN THE COUNTRY (2000) (discussing the history of rural residents adapting new technologies).

internet). If available spaces of production are too far from their spaces of reproduction, or are otherwise inaccessible, rural women may choose informal economic activity that permits them to merge these two spaces/spheres.<sup>172</sup> Alternatively, they may be economically inactive. These same barriers may similarly inhibit women's participation in other public spheres, such as local or regional activism and politics.

#### a. Public/Private, Urban/Rural

In addition to being literally relegated to private spaces, rural women may also be conceptually associated with the private in a way that urban women are not. This is because the public/private divide that permeates life and law<sup>173</sup> is arguably still more acute in rural than in urban places. One consequence is that rural patriarchy has tended to be private patriarchy.<sup>174</sup> That is, the critical "locus of women's oppression and exploitation" has been the household, not the public institutions of the market and politics, in which rural women have been less involved.<sup>175</sup>

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172. See, e.g., Oberhauser, *Relocating Gender*, *supra* note 44, at 1235 (citing care of dependents, transportation barriers, and low-paying service jobs as reasons women chose to work at home); Tickamyer, *Private Lives*, *supra* note 72, at 738 (analyzing the spatiality of household survival strategies in relation to the family farm and noting that off-farm employment is balanced against household and farm labor). Of course, farm wives who do not also work off the farm have no commute and are in a situation in which public and private, work and family spheres merge.
173. Olsen, *supra* note 4, at 1529 (the market/family dichotomy "pervades our thinking, our language, and our culture"); Catharine A. MacKinnon, *Disputing Male Sovereignty: On United States v. Morrison*, 114 HARV. L. REV. 135, 170 (2000) (discussing the Supreme Court's attention to the public/private divide in the course of "maintaining a system in which male power over women remains effectively without limit"); Judith Resnik, *Categorical Federalism: Jurisdiction, Gender, and the Globe*, 111 YALE L.J. 619, 621 (2001) (dichotomies regarding gender depend on dichotomies of family/market, and public/private); Emily Sack, *Battered Women and the State: The Struggle for the Future of Domestic Violence Policy*, 2004 WISC. L. REV. 1658, 1736 (discussing contemporary dilemmas regarding domestic violence policy in terms of the public-private divide); Weissman, *supra* note 16, at 424 (gender roles, relegating men's work as paid and women's as unpaid are accepted conventionally and legally as "self-evident truths"); Kerber, *Separate Spheres*, *supra* note 5, at 39 (though the distinctions may be increasingly fuzzy, the gendering of public and private spaces persists).
174. See SYLVIA WALBY, *THEORIZING PATRIARCHY* 59 (1990). "Patriarchy" may be defined as "male dominated, male identified, and male centered" social structure. ALLEN G. JOHNSON, *THE GENDER KNOT: UNRAVELING OUR PATRIARCHAL LEGACY* 26 (1997). "[W]hat drives Patriarchy as a system . . . is a dynamic relationship between control and fear. Patriarchy encourages men to seek security, status, and other rewards through control; to fear other men's ability to control and harm them; and to identify being in control as both their best defense against loss and humiliation and the surest route to what they need and desire." *Id.* See also R. EMERSON DOBASH & RUSSELL DOBASH, *VIOLENCE AGAINST WIVES: A CASE AGAINST PATRIARCHY* 43-44 (1979) (discussing patriarchy as structure and ideology); Lobao, *Gendered Places*, *supra* note 108, at 270 (defining patriarchy as men's relatively greater power, prestige, and privilege).
175. See NEIL WEBSDALE, *RURAL WOMAN BATTERING AND THE JUSTICE SYSTEM* 49 (1998); cf. Bescher-Donnelly & Smith, *supra* note 90, at 176-77 (noting that rural women were more likely than urban women to be elected to public office, but that neither group had seen much

The sharpness of the public-private divide in rural places is true in several senses, and for several reasons. While I have used the public/private dichotomy thus far as essentially synonymous with the market/family analytical axis, it is also associated with other, related dichotomies. One of these is between domains in which law plays a role (public) and domains in which it does not (private).<sup>176</sup> Historically, this regulation/nonregulation dichotomy was closely aligned with the market/family divide because the law actively regulated the former sphere, whereas the male head of household retained authority in the latter.<sup>177</sup>

The urban/rural binary also reflects these dichotomies. Scholars across several disciplines have associated rurality with the private.<sup>178</sup> So have judges, who have found rural residents have greater expectations of privacy than their urban counterparts, and therefore a greater entitlement to it.<sup>179</sup> Legal actors may thus be reluctant to act in the realm of the rural, as in the domestic, because of the same sense that a private, informal order prevails there. They may view the invocation of law as an inappropriate interference.

Soja has characterized the rural somewhat pejoratively in relation to the private, associating it also with a lack of conformity and with individuality:

To be urbanized still means to adhere, to be made an adherent, a believer in a specified collective ideology rooted in extensions of *polis* (politics, policy,

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success in seeking state or national office). While rural women's association with private patriarchy seems to be changing with their increasing involvement in the marketplace, that involvement has yet to endow them with significant economic power and, indeed, appears to be a further basis for their oppression. By the same token, urban women remain subject to the private patriarchy of the domestic sphere.

176. Any area in or upon which the law operates is or becomes "public" to some degree. In this sense, the public defines the private as that remnant of society with which it declines to deal. The line is often one between grievances for which the law provides redress and those for which it does not.
177. See *State v. Rhodes*, 61 N.C. 453, 454 (1868) ("The courts have been loath to take cognizance of trivial complaints arising out of the domestic relations—such as . . . husband and wife. Not because those relations are not subject to the law, but because the evil of publicity would be greater than the evil involved in the trifles complained of; and because they ought to be left to family government."); see also WILLIAM BLACKSTONE, 2 COMMENTARIES ON THE LAWS OF ENGLAND 432-33 (giving the husband authority to correct the behavior of his wife and children as the head of household); NANCY COTT, PUBLIC VOWS: A HISTORY OF MARRIAGE AND THE NATION 57-58 (2000) (discussing Southern slave-owners' framing of slavery as domestic relationship rather than a labor-based one); Reva Siegel, "The Rule of Love": Wife Beating as Prerogative and Privacy, 105 YALE L.J. 2117 (1996) (recounting the Anglo-American tradition of permitting the husband, as master of the household, to chastise his wife).
178. See, e.g., ROSE, *supra* note 7, at 74 (associating the countryside with nature and the primitive, and the city with space and culture).
179. Pruitt, *Rural Rhetoric*, *supra* note 27, at 194-95. These associations have been articulated most often in relation to the U.S. Constitution's Fourth Amendment protections against search and seizure. They have also been expressed in relation to creditors' right of entry to repossess goods, *id.* (citing *Salisbury Livestock Co. v. Colo. Cent. Credit Union*, 793 P.2d 470, 475 (Wyo. 1990)), and in considering the unique character of rural land. See *Macon-Bibb County Water & Sewage Auth. v. Reynolds*, 299 S.E.2d 594, 599 (Ga. Ct. App. 1983) (suggesting greater right of privacy in rural property than urban property, in the context of considering the uniqueness of land).

polity, police) and *civitas* (civil, civic, citizen, civilian, civilization). In contrast, the population beyond the reach of the urban is comprised of *idiotes*, from the Greek root *idios*, meaning ‘one’s own, a private person’, unlearned in the ways of the *polis*. . . . Thus to speak of the ‘idiocy’ of rural life or the urbanity of its opposition is primarily a statement of relative political socialization and spatialization, of the degree of adherence/separation in the collective social order.<sup>180</sup>

While Soja’s statement ignores the internal social compliance associated with rural communities,<sup>181</sup> his point seems to be that rural residents have opted out of the broader *polis/civitas* by choosing the marginality of rural life.<sup>182</sup> Marc Mormont has similarly suggested that rural social life “preserves the individual . . . whereas the city requires large organizations that take precedence over the individual.”<sup>183</sup> He writes that rural “social life is made up of personal relationships: hence everyone is necessarily involved in social life, as no collective organizations stand between the individual and ‘society.’”<sup>184</sup> Mormont sees rural spaces as symbolizing difference,<sup>185</sup> and he views rural residents as able to express “their own systems of values . . . their own private lifestyle”<sup>186</sup> because they enjoy more space, which is less-structured.<sup>187</sup> Both Soja and Mormont thus use the public/private dichotomy to suggest an institution/individual binary, which they see as parallel to the urban/rural divide.<sup>188</sup>

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180. SOJA, POSTMODERN GEOGRAPHIES, *supra* note 1, at 234-35 (1989), *quoted in* Ching & Creed, *supra* note 19, at 8.

181. In fact, rural sociologists tend to see rural residents as highly compliant with social norms within their communities. *See* RALPH WEISHEIT ET AL., CRIME AND POLICING IN RURAL AND SMALL TOWN AMERICA 41-44 (3d ed. 2006); Lisa R. Pruitt, *The Forgotten Fifth: Rural Youth and Substance Abuse*, STAN. L. & POL’Y REV. (forthcoming 2009) (collecting sources).

182. This is consistent with associations of rurality with self-sufficiency and rugged individualism. *See* Naples, *supra* note 15, at 115-16. It also reflects associations between rural residence and libertarianism, even anti-government sentiment. *See infra* note 187.

183. Mormont, *supra* note 9, at 26.

184. *Id.*

185. *Id.* at 37.

186. *Id.* at 26.

187. An extreme manifestation of this is the Posse Comitatus, who recognize no government above the county level.

188. Again, the alignment of this collective/individual binary with the rural/urban binary seems inconsistent with the informal social control that is associated with rural places. *See supra* note 181 and accompanying text. That inconsistency might be explained by focusing on notions of rurality in relation to urbanity, not within rural communities. While rural people are marginal vis-à-vis the urban and the national, within the rural area where they live, they may conform to their own community’s norms. Indeed, Mormont says these rural residents are necessarily involved in social life because institutions and organizations are not present to negotiate their relationships to society.

This apparent inconsistency between the informal social order and conformity associated with rural communities and what Mormont calls rural individualism might also be explained in terms of the distinction between those who live in small towns (or students who attend rural schools) on the one hand, and those who live more remotely, with much greater spatial

Mormont also associates rurality with a preference for “compromise [over] conflict in dealing with social tension.”<sup>189</sup> Legal actors have similarly viewed rural residents as avoiding the conflict of litigation in favor of the compromise of informal resolution.<sup>190</sup> In the same vein, judges have opined that rural places require less regulation than cities.<sup>191</sup> They have based this view on the assumption that rural folk are less amenable to law playing a mediating role in their lives because they are capable of resolving their own conflicts—and prefer to do so.<sup>192</sup>

Finally, rurality has also been associated with femininity.<sup>193</sup> This link dates back to the Renaissance period, when cities were perceived as places for expressing the ideas of the mind,<sup>194</sup> while rural places were associated with “the disorderly, the chaotic, the unknowable”—and therefore the feminine.<sup>195</sup> Urban thinkers of the time saw the city as “a unified, visual whole, that should reflect rational, geometric principles,” reflecting the human intellect’s dominance over nature.<sup>196</sup> Man thus controls nature, as exemplified by the “city,” even as he enjoys dominion over woman.<sup>197</sup>

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and information privacy because of their dearth of contact with others.

189. Mormont, *supra* note 9, at 26.

190. See Engel, *supra* note 80, at 552-54; ROBERT ELLICKSON, ORDER WITHOUT LAW (1991).

191. See Pruitt, *Rural Rhetoric*, *supra* note 27, at 202-07 (giving examples of judicial expression of this attitude).

192. *Id.*

193. Consider the term “Mother Nature.” See also, e.g., MASSEY, *supra* note 7, at 9-10 (associating the feminine with the private, nature, and the local). Massey explains:

And yet in spite of all these reservations, some culturally specific symbolic association of women/Woman/local does persist. Thus, the term local is used in a derogatory reference to feminist struggles and in relation to feminist concerns in intellectual work (it is *only* a local struggle, *only* a local concern). Neither, it is argued, possesses the claim on universalism made by a concern with class. That bundle of terms local/place/locality is bound in to sets of dualism, in which a key term is the dualism between masculine and feminine, and in which, on these readings, the local/place/feminine side of the dichotomy is deprioritized and denigrated.

*Id.* at 10. See also ROSE, *supra* note 7, at 74 (noting that the nature/culture dichotomy is gendered, with that natural being associated with the body, the specific, the private, and the relational). Cf. DOMOSH & SEAGER, *supra* note 5, at 4 (discussing perceptions of the family as a communal institution where people relate to each other through bonds of compassion and obligation, in contrast with the public or market sphere where individuals compete).

194. DOMOSH & SEAGER, *supra* note 5, at 69.

195. *Id.* at 71 (citing ELIZABETH WILSON, THE SPHINX IN THE CITY: URBAN LIFE, THE CONTROL OF DISORDER, AND WOMEN (1991)); see also Eric Freyfogle, *The Education of Ada*, in AGRARIANISM AND THE GOOD SOCIETY: LAND, CULTURE, CONFLICT AND HOPE (2007) (commenting on the sharp distinction between the characters Ada and Ruby in Charles Frazier’s *Cold Mountain*; the former all culture, the latter all nature); Dewey, *supra* note 28, at 63 (listing other dichotomies that parallel rural-urban, including sacred-secular, preliterate-literate, static-dynamic, primitive-civilized).

196. DOMOSH & SEAGER, *supra* note 5, at 69.

197. On the other hand, cities do share some associations with the feminine. Both are sometimes seen as sinful and corrupting. Female associations with such characteristics go back to the Garden of Eden in the Old Testament of the Bible, with Eve tempting Adam to eat the forbidden fruit. Urban associations with such unsavory elements are culturally widespread.



Related to this gendered hierarchy is the observation of Professors Ching and Creed that “[t]he rural/urban distinction underlies many . . . power relations,” and that “the city remains the locus of political, economic and cultural power.”<sup>198</sup> Just as men (like cities) have been associated with the public sphere of money and politics, women (like the countryside) have typically lacked access to power and knowledge.<sup>199</sup> In part because of their association with the private sphere and domestic spaces, women have wielded little power.<sup>200</sup> The same is true of rural residents, who tend to be denigrated culturally,<sup>201</sup> and who lack political clout.<sup>202</sup>

We can thus identify a series of parallel and related binaries: public/private, regulated/unregulated, orderly/chaotic, institutional/individual, and urban/rural. In each, the less-valued item is coded feminine.<sup>203</sup> Among these is rurality.

Because judicial attitudes toward rurality are similar to those long held about the private or domestic sphere, the law may seriously neglect rural women. If the law is seen as having a lesser role in both rural places and domestic spaces, legal actors may not perceive a role for the law in the lives of rural women, who share both associations. Indeed, the more traditional notions regarding gender roles as well as the low status of rural people may intensify the separation

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They may even be seen in judicial opinions. *See e.g.*, *Dixon v. State*, 167 So. 340, 344-45 (Ala. Ct. App. 1936) (quoting HARRY BEST, *CRIME AND THE CRIMINAL LAW IN THE UNITED STATES* (1930)). Best wrote:

Vice and immorality, with actual crime in attendance or close behind, may be directly and deliberately organized in the city, to ensnare the feet of those who otherwise would not be tempted. Entrepreneurs are ever on hand, and customers not far to seek. The city harbors solicitors of wrongdoing. The gangster and his compeers are developed and grow to power in the city. To it criminals gravitate.

*Id.*

198. Ching & Creed, *supra* note 19, at 17.

199. *See* Tickamyer, *Private Lives*, *supra* note 72, at 740-41.

200. *See supra* notes 155-161 and accompanying text.

201. Ching & Creed, *supra* note 19, at 4-5, 22. *See, e.g.*, Timothy Egan, Outposts Editorial Blog, *Two-Buck Huck*, N.Y. TIMES, Jan. 2, 2008, <http://egan.blogs.nytimes.com/2008/01/02/intro/?scp=1-b&sq=two+buck+huck&st=nyt> (ridiculing Mike Huckabee, Republican Presidential candidate from Arkansas, by invoking Wal-Mart, Gomer Pyle, “mangy dogs,” and the fact he eats squirrel and once lived in a mobile home); Lisa R. Pruitt, Legal Ruralism Blog, *Folksy as Taboo in National Politics? The Palin Factor*, Oct. 24, 2008, <http://legalruralism.blogspot.com/2008/10/folksy-as-taboo-in-national-politics.html> (noting how media commentators have ridiculed Sarah Palin’s use of colloquial language).

202. *See supra* note 91 (indicating that while rural voters generally hold little political power, they are significant within swing states in close elections).

203. Feminist geographer Doreen Massey has observed that, as between space and place, place connotes local, specific, concrete, and descriptive—in contrast to space’s associations with “general, universal, theoretical/abstract/conceptual.” MASSEY, *supra* note 7, at 9. She continues: “It is interesting in that context to ponder the gender connotations of these pairings. The universal, the theoretical, the conceptual are, in current western ways of thinking, coded masculine. . . . On the other side of the pairings, the term ‘local’ itself displays, on the one hand, a remarkable malleability of meaning and, on the other, a real consistency of gender association.” *Id.* at 9 (citing GENEVIEVE LLOYD, *THE MAN OF REASON: “MALE” AND “FEMALE” IN WESTERN PHILOSOPHY* (1984)).

between the urban/public/masculine and the rural/private/feminine spheres.<sup>204</sup> Legal actors may thus be oblivious to rural women because of both their physical and attitudinal distance from centers of power and knowledge.<sup>205</sup>

Feminist legal scholars have long argued that law's neglect of the family and other private spaces is not benign because it denies them law's protection. Catharine MacKinnon offers a vivid expression of the problem: "[T]he actions and inactions of law construct and constrict women's lives, its consequences no less powerful for being off-stage. Focusing on the areas the law abdicates, its gaps and silences and absences, one finds that women's everyday life has real rules," albeit not formal ones.<sup>206</sup> MacKinnon calls these rules of everyday life "the law for women where there is no law."<sup>207</sup> As she observes, wrongs ignored or laws unenforced profoundly shape women's lives—sometimes to a greater degree than matters that the law affirmatively regulates.

The same might be said of rural places, which law has tended to approach with a "hands off" presumption.<sup>208</sup> Legal actors' views of the rural as marginal are similar to the law's views of the domestic sphere as beyond its purview. For rural women, then, who are associated with the private by virtue of both their gender and their location, the law is "high up and a long way off."<sup>209</sup>

### b. (Urban) Mobility and (Rural) Immobility

Rural women may be disserved or disabled by rural spaces in yet another

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204. There is cross-cultural evidence for the relationship between the rigidity of spatial sexual segregation and the status of women in nonindustrial societies as well as detailed examples of its operation both historically and in the contemporary United States. SPAIN, *supra* note 7, at 248-51; *see also* WALBY, *supra* note 174, at 59.

205. *See* WEBSDALE, *supra* note 175, at 44-45 (citing WALBY, *supra* note 174) (arguing that patriarchy takes a particular form in rural areas due to "women's more limited opportunities for survival in the wage labor market," which endows men with greater power to keep and control them within the home).

I have argued elsewhere that not all legal actors are equally equipped to make decisions regarding rural actors in rural contexts. Local judges will be better equipped to understand the rural milieu. *See* Pruitt, *Rural Rhetoric*, *supra* note 27, at 207-11 (discussing, for example, taking judicial notice of rural characteristics). On the other hand, rural judges may be less desirable decision makers if they are oblivious to injustices in their community, including those with a gendered component, because the injustice is "naturalized" into the rural setting. *See* Kathryn Fahnestock, NOT IN MY COUNTY: RURAL COURTS AND VICTIMS OF DOMESTIC VIOLENCE (1991) (discussing rural officials' denial of the occurrence of domestic violence in their communities); Pruitt, *Place Matters*, *supra* note 17, at Part IV.

206. CATHARINE A. MACKINNON, *WOMEN'S LIVES, MEN'S LAWS*, 34 (2004). She argues that these rules "effectively prescribe what girls can be, what the community encourages and permits in a woman, what opportunities are available and hence what aspirations are developed, what shape of life is so expected that it is virtually never articulated." *Id.* Feminist geographers have similarly called for attention to the "everyday," with respect to the spaces of women's movement and activity. *See* ROSE, *supra* note 7, at 17.

207. MACKINNON, *supra* note 206, at 34.

208. *See* Pruitt, *Rural Rhetoric*, *supra* note 27, at 202-07.

209. MACKINNON, *supra* note 206, at 34. "The content of the formal legal system, the output of legislatures and courts, has a real effect on these processes, but, from the vantage point of life being lived, it seems a distant one." *Id.* at 34-35.

way, this one related to their immobility. I have already noted that rural residents are relatively immobile in two different respects. First, they are constrained by the physical distances that separate them from jobs, educational opportunities, services, and each other. Indeed, distance may effectively exclude them from public spaces. Second, rural residents are relatively immobile on a macro level because their attachment to place often binds them to their locale in a way that is not relevant to most urban dwellers. Recall Harvey's assertion that "the politics of space" resides "in the contradiction between mobility and immobility."<sup>210</sup> Gender politics—including its rural manifestations—are similarly linked to women's mobility and immobility.

Feminist geographers assert that women's mobility poses a threat to patriarchy,<sup>211</sup> an assertion related to separate spheres ideology. Restrictions on women's movement within and across spaces thus shape women's identities in critical ways—by limiting the very possibilities of their lives.<sup>212</sup> Indeed, limitations on mobility and identity are "crucially related,"<sup>213</sup> and such limitations enforce women's subordination.<sup>214</sup>

Domosh and Seager have discussed women's mobility in relation to urban places, asserting that women represent a threat to the social order of the city, which is coded masculine.<sup>215</sup> Thus, social controls keep urban women "in their [domestic/home] place."<sup>216</sup> These controls include street harassment, which Cynthia Grant Bowman characterizes as the "informal ghettoization of women."<sup>217</sup> Bowman observes that because society associates women with the private or domestic, men are less likely to challenge or harass women when they

210. See *supra* text accompanying note 139.

211. MASSEY, *supra* note 7, at 11. Martha Nussbaum has also commented on the significance of mobility to women's situation. See NUSSBAUM, *supra* note 6, at 76-78 (listing "being able to move freely from place to place" as a component of "bodily integrity," one of ten capabilities that all democracies should support).

212. Massey theorizes that

the masculine desire to fix the woman in a stable and stabilizing identity . . . may be tied in with a desire to fix in space and place. One gender-disturbing message might be—in terms of both identity and space—keep moving! The challenge is to achieve this whilst at the same time recognizing one's necessary locatedness and embeddedness/embodiedness, and taking responsibility for it.

MASSEY, *supra* note 7, at 11 (internal quotation marks and citation omitted); see also *id.* at 179-80. A social or cultural desire to fix rurality in a "stable and stabilizing identity" arguably also exists in the United States. See Pruitt, *Rural Rhetoric*, *supra* note 25, at Parts II, VII.

213. MASSEY, *supra* note 7, at 179-80.

214. *Id.*

215. DOMOSH & SEAGER, *supra* note 5, at 69-72, 82-94.

216. ROSE, *supra* note 7, at 56 (observing the idealization of place as home and the link of both to women, while also noting that feminists contest these associations); see also *id.* at 23; DOMOSH & SEAGER, *supra* note 5, at 71-72, 82-94 (discussing the history of women's presence in urban public places as problematic).

217. Cynthia Grant Bowman, *Street Harassment and the Informal Ghettoization of Women*, 106 HARV. L. REV. 517 (1993); see also Deborah Tuerkheimer, *Street Harassment as Sexual Subordination: The Phenomenology of Gender-Specific Harm*, 12 WIS. WOMEN'S L.J. 167 (1997) (arguing for legal recognition of the gender-specific harms of street harassment).

are in places associated with their domestic or social reproduction responsibilities.<sup>218</sup> Their presence on city streets, however, has invited the sort of aggressive male behavior that intimidates and threatens, thus potentially or effectively driving them back home.<sup>219</sup>

But what is the rural counterpart to this need to control urban women by, for example, harassing them into immobility? Because a certain degree of immobility is inherent in the lives of rural women,<sup>220</sup> they are already less mobile than their urban counterparts.<sup>221</sup> Rural women may thus be less of a threat (or differently positioned as a threat) to the public/social order in rural places because the entrenched patriarchy there so effectively confines them to spaces that are out of society's (and law's) line of vision. If women are associated conceptually with rurality<sup>222</sup> and seen as "belonging" in the country, rural women may already be effectively "in their place."<sup>223</sup> Further, even as rural women increasingly work outside the home, their deep-seated association with

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218. Bowman, *supra* note 217, at 530; see also MASSEY, *supra* note 7, at 179-80 (writing of the "straightforward exclusion by violence," as a way in which spaces and places are gendered). This, of course, does not mean that homes are not sites of male harassment and violence against women. In those spaces, however, male intimates are more often the perpetrators.
219. This phenomenon is associated, at least implicitly, with urban spaces. See Deborah M. Thompson, "The Woman in the Street": Reclaiming the Public Space from Sexual Harassment, 6 YALE J.L. & FEMINISM 313, 316-19 (1994) (offering various examples from urban settings, primarily New York City; referring to "boorish urban environment") (quoting Robin L. West, *The Difference in Women's Hedonic Lives: A Phenomenological Critique of Feminist Legal Theory*, 3 WIS. WOMEN'S L.J. 81, 106 (1987) (suggesting many or most women living in urban places have experience street harassment)).
220. See *supra* Part III.B.1; Pruitt, *Feminist Theory of the Rural*, *supra* note 6.
221. See *supra* notes 67-69 and accompanying text. Mormont acknowledges both mobility and immobility associations with rurality. He repeatedly acknowledges long-time rural residents' attachment to place. Mormont, *supra* note 9, at 33, 39. He nevertheless also argues that rural places are increasingly porous and have been greatly impacted by increased movement of people and goods between the rural and urban, as well as by technology. *Id.* at 31.
222. DOMOSH & SEAGER, *supra* note 5, at 69-72. Massey makes a related point, observing "an association between the feminine and the local," and noting a link between this observation and the public/private division. MASSEY, *supra* note 7, at 9. Massey provides as an example the assumption that women "lead more local lives" than men. *Id.* She has also notes gendered associations with place, including those with a "culturally constructed version of 'Woman,'" home, and nostalgia. She gives the example, "A place called home," which she acknowledges is entrenched, even as she contests its accuracy. *Id.* at 10.
223. The association between home, gender, and place is also reflected in a rural Southern expression: "home place," which refers to the family land, sometimes a farm, where the eldest generation typically still resides. The term was used in this way, for example, by a justice on the Mississippi Supreme Court, in a 1991 opinion in which he wrote separately regarding the City of Hattiesburg's annexation of a neighboring community:
- I refer to those who for decades have been *country folk* who have by and large lived off the land, who never dreamed of moving to town or doing anything other than maintaining and enjoying a *rural life-style*. I refer to those who have made their homesteads without reference or thought to avoiding city taxes, politics or cultural pluralism. Indeed, many of these, who have not merely remained on the home place mom and dad left them, have consciously accepted the costs, risks and inconvenience of living many miles from town.
- In re* Enlargement of the Corporate Limits of Hattiesburg, 588 So. 2d 814, 833 n.6 (Miss. 1991) (Robertson, J., concurring and dissenting) (emphases added).

the domestic persists.<sup>224</sup> The ongoing primacy of their home making and parenting roles means that they are already effectively controlled. The rural manifestation of patriarchy so limits them that no further control may be necessary.<sup>225</sup>

### 3. Summary

Opportunities to analyze gender in relation to rural space are plentiful and productive against the current backdrop of demographic and economic change.<sup>226</sup> These transformations present an opportunity to consider rural women's "legal lives" with respect to the issues around which they encounter the law, legal institutions, actors, and decision-makers—in a more nuanced way that takes account of space. Theorizing the intersection of gender and rurality may help explain law's lack of responsiveness to rural women in the same way that early theorizing around the public/private divide illuminated law's inattention to the realities of women's lives, particularly in the domestic sphere.

Yet, viewing rural women through the abstract lens of spatiality reveals only a partial picture. Studies over the past two decades, which have considered gendered struggles arising from economic restructuring in rural America, provide an empirical basis for theorizing its socio-spatial implications for rural women. These studies illustrate how women respond to particular labor markets and resources associated with their locales.<sup>227</sup> The next Part details two of these studies to show how attention to place further enhances our understanding of rural women's lived experiences in a way that can inform the law.

#### B. Place

"All politics is local."<sup>228</sup>

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224. See, e.g., WEBSDALE, *supra* note 175; *supra* notes 103-05 and accompanying text. Other possible explanations for street harassment not being a rural phenomenon are that the line between public and private is less distinct there; that paternalism toward women makes it socially unacceptable, especially in the context of communities where the social pressure to conform, and the opportunity to monitor conformity, is great; and that the lack of anonymity in rural places means that men cannot harass women anonymously.

225. On the other hand, the domestic violence associated with rural restructuring might be viewed as another form of control, given that the domestic violence correlates to women taking paid work outside the homes, albeit out of economic necessity. See *supra* note 16 and accompanying text.

226. Lobao & Meyer, *Economic Decline*, *supra* note 79, at 575 (asserting that gendered divisions of labor tend to be "most malleable during periods of economic decline" providing a backdrop that reveals changes as something other than natural); see also Naples, *supra* note 15 at 131.

227. See, e.g., Nelson & Smith, *supra* note 57, at 80.

228. This adage is associated with Thomas P. "Tip" O'Neill, U.S. Speaker of the House, 1977-1986, and is part of the title of his 1995 book, *All Politics Is Local (and Other Rules of the Game)*. The expression actually "appeared much earlier, such as in the *Frederick News* (from Maryland) July 1, 1932." YALE BOOK OF QUOTATIONS 566 (Fred Shapiro ed., 2006).

Place is a subcategory of space, and change in an actual physical place implicates spatiality.<sup>229</sup> At the same time, socio-spatial features influence the material characteristics of a place, as well as its social construction. One exposition on place articulates its role in spatial analysis: “particular places provide a locale that may operate as a container and backdrop for social action, as a set of causal factors that shape social structure and process, and finally as an identifiable territorial manifestation of social relations and practices that define that particular setting.”<sup>230</sup> Place presents a valuable opportunity to consider and grapple with how specific characteristics of a given location—and specific happenings there—shape its socio-spatial character, as well as the livelihoods of its residents.<sup>231</sup>

### 1. Rurality as Literal and Metaphorical Place

Place-based analysis takes us beyond the broad rural/urban axis. Such a place-oriented approach is more nuanced than the rural/urban binary, and it responds to the criticisms that rural scholars have leveled against simple, dichotomous thinking.<sup>232</sup> Mormont, for example, has emphasized the lack of unifying criteria among rural communities.<sup>233</sup> Tickamyer has observed that a dichotomous approach “has less explanatory power than elaborating differences in economic base, industrial mix, links to other markets, human capital factors, and population characteristics that constitute different places.”<sup>234</sup>

Critical geographers tend to emphasize not only such differences, but also the “contested, fluid and uncertain” character of place “made through power relations which construct the rules” that define social and spatial boundaries.<sup>235</sup> They thus see place, like space, as socially produced,<sup>236</sup> which challenges the

229. Tickamyer, *Space Matters!*, *supra* note 11, at 806.

230. *Id.*

231. An excellent example of work demonstrating variations among rural places is Cynthia Duncan’s book, *World’s Apart* (2000), in which she identifies the differing causes of rural poverty in three locations: Appalachia, the Mississippi Delta, and New England. *See also* Cynthia M. Duncan & Nita Lamborghini, *Poverty and Social Context in Remote Rural Communities*, 59 *RURAL. SOC.* 437, 442 (1994) (noting variations in population stability and job opportunities between Appalachia and New England, which had an impact on poor women’s experiences and aspirations; also explicitly differentiating “remote” rural places from less remote ones by studying two communities that were each more than four hours by car from the nearest metropolitan area).

232. It is also consistent with a similar feminist critique of dichotomous thinking.

233. Mormont, *supra* note 9, at 27.

234. Tickamyer, *Space Matters!*, *supra* note 11, at 810.

235. McDOWELL, *supra* note 7, at 4.

236. *See, e.g.*, Miewald & McCann, *supra* note 12, at 1045 (abstract) (referring to “networks of social relations at the scale of the locality” contributing to the “production of place and scale”).

Linda McDowell offers this exposition: “It is socio-spatial practices that define places and these practices result in overlapping and intersecting places with multiple and changing boundaries, constituted and maintained by social relations of power and exclusion.” McDOWELL, *supra* note 7, at 4 (citing Massey 1991, Smith 1993). “Places are made through power relations which construct the rules which define boundaries. These boundaries are

“commonsense geographical notion of a place as a set of coordinates on a map that fix a defined and bounded piece of territory.”<sup>237</sup> Linda McDowell observes that “[p]laces may no longer be ‘authentic’ and ‘rooted in tradition’” but rather are “defined by the socio-spatial relations that intersect there and give a place its distinctive character.”<sup>238</sup> In this regard, and in relation to rural places, Mormont goes so far as to call the rural “a category of thought . . . a constructed representation and not an ascertained reality.”<sup>239</sup>

Others endorse a less radical approach to the “rural” as place. Tickamy, for example, asserts that regional identities and cultures—place-based variations—are real because they are believed to be real; they therefore have real consequences.<sup>240</sup> Ching and Creed take the middle ground, endorsing a metaphoric use of “place,” with reference to “a particular physical environment and its associated socio-cultural qualities.”<sup>241</sup> Professor Hari Osofsky has expressed a similar idea: “culture and identity are inextricably bound with . . . place-based relationships.”<sup>242</sup>

Like these latter scholars, I use place as a “grounded metaphor,”<sup>243</sup> a “setting for the routines of everyday life” that is also related to “social memory, identity, and sense of place.”<sup>244</sup> Such a conception of place is appropriate to rural locales because rural culture and identity are often linked to land, and many rural places are rooted in tradition.<sup>245</sup> Nevertheless, an awareness of how rurality is socially constructed—by both insiders and outsiders—accommodates an assessment of the social and cultural shifts that necessarily accompany demographic and economic change.

## 2. Gender and Restructuring in Two Rural Communities

Specific events occurring in particular communities provide prime

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both social and spatial—they define who belongs to a place and who may be excluded, as well as the location or site of the experience.” *Id.* In relation to rural places, this raises questions such as how women fare in rural spaces, such as the public spaces of the town square, the farm supply store or feed mill, and traditionally masculine workplaces. Are women effectively excluded from these locales? On the other hand, are they the ones making the rules and defining who belongs in other public spaces, such as churches and in the service-sector workplace to which they tend to be relegated? *See Feyen, supra* note 18, at 112-13.

237. MCDOWELL, *supra* note 7, at 3-4.

238. *Id.* (opining that our “notion of locality or place itself” has become more sophisticated as a consequence of the understanding that globalizing forces reconstruct rather than destroy localities).

239. Mormont, *supra* note 9, at 22, 40, 41.

240. Tickamy, *Space Matters!*, *supra* note 11, at 810.

241. Ching & Creed, *supra* note 19, at 7.

242. Osofsky, *Litigation as Pluralist Dialogue*, *supra* note 111, at 222.

243. Ching & Creed, *supra* note 19, at 7 (arguing for attention to the “conceptual and experiential difference” between rural and urban).

244. Miewald & McCann, *supra* note 12, at 1047.

245. *See supra* Part III.

opportunities for place-based analysis.<sup>246</sup> The exhaustion of timber in Oregon's Western Cascades,<sup>247</sup> a factory closing in East Tennessee,<sup>248</sup> and the Midwest farm crisis of the 1980s.<sup>249</sup> each invites place-based analyses, which also inform more abstract spatial analyses.

The material consequences of such events reverberate through those places and affect neighboring, and even distant places. As I discussed in Part III.A, these reverberations have spatial dimensions. They influence socio-spatial arrangements at home and in the labor market, as well as between such spaces. Their impact plays out at various scales.<sup>250</sup>

To illustrate the role of place analysis, I discuss two studies of rural economic restructuring. While these studies from Iowa and Kentucky employed differing methodologies and had somewhat different foci, each considered the consequences of economic change for rural women. Some common themes emerged from these critical geographic analyses oriented to "place." Both local cultures exhibited an entrenched patriarchy in which women had rarely played roles in the public spheres of market and politics, but both studies showed women transcending the public-private divide to some extent in the wake of economic restructuring. Both tales of restructuring reveal spatial implications, in the public sphere/space of the market, as well as in the private sphere/space of

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246. See, e.g., Nelson & Smith, *supra* note 57, at 79, 83 (studying a rural Vermont county in the early 1990s in the wake of economic restructuring); Katherine Meyer & Linda M. Lobao, *Engendering the Farm Crisis: Women's Political Response in USA*, in GENDER AND RURALITY 69-70 (Sarah Whatmore et al. eds., 1994) [hereinafter Meyer & Lobao, *Engendering the Farm Crisis*] (analyzing the gendered nature of the farm crisis and its consequences for political attitudes); Katherine Meyer & Linda M. Lobao, *Farm Couples and Crisis Politics: The Importance of Household, Spouse, and Gender in Responding to Economic Decline*, 59 J. MARRIAGE AND THE FAM. 204 (1997) [hereinafter Meyer & Lobao, *Farm Couples*] (analyzing responses to the 1980s farm crisis); Miewald & McCann, *supra* note 12 (discussing the production of place, particularly in the "microsites" of body and household, in the wake of economic restructuring in Appalachia); Oberhauser, *Relocating Gender*, *supra* note 44 (analyzing renegotiation of gender identities in the wake of economic restructuring in rural Appalachia); Sally Ward Maggard, *Race, Gender & Place: Confounding Labor Activism in Central Appalachia*, in NEITHER SEPARATE NOR EQUAL: WOMEN, RACE, AND CLASS IN THE SOUTH 185 (Barbara Ellen Smith ed., 1999) (studying women in rural Eastern Kentucky who went on strike in support of their own waged labor, rather than in support of their miner husbands).
247. For a discussion of the effects of the closing of timber mills in the Western Cascades, see Erik Eckholm, *In Rural Oregon, These Are the Times That Try Working People's Hopes*, N.Y. TIMES, Aug. 20, 2006 (reporting that those previously earning \$20-\$30/hour are working in low-end service jobs for a fraction of that with many commuting to Eugene).
248. See MORRISTOWN, *supra* note 56 (depicting the changing employment base and economic fortunes of Morristown, Tennessee, a micropolitan center in the midst of three rural counties in northeast Tennessee).
249. See generally KATHRYN MARIE DUDLEY, DEBT AND DISPOSSESSION: FARM LOSS IN AMERICA'S HEARTLAND (2000) (observing that rural residents in the midst of the farm crisis of the 1980s were unlikely to seek assistance from neighbors because they found doing so stigmatizing); Meyer & Lobao, *Engendering the Farm Crisis*, *supra* note 246, at 70-71; Meyer & Lobao, *Farm Couples*, *supra* note 246.
250. See *infra* Part IV.C.



the household.<sup>251</sup>

### a. Differing Economic Crises

The rolling plains and rich soil of Iowa foster agriculture. The natural resources buried deep in the Appalachian Mountains invite mining. The physical characteristics of each place have determined the focus of the local economy, essentially discouraging economic diversification. Changes in the supply of labor, or demand for it, thus threatened the livelihoods of the residents of these different rural places.

In Iowa, the farm crisis of the 1980s challenged the Midwestern form of entrenched rural patriarchy and agrarian ideology,<sup>252</sup> which viewed men's labor as primary, thereby obscuring women's contributions to family farms and other rural enterprises.<sup>253</sup> As well-paying mining jobs declined in Appalachian Kentucky, sharp and enduring gender divisions of labor also shifted.<sup>254</sup> To survive, many women in these disparate communities emerged from the private spheres/spaces of their households to join the public spheres/spaces of the paid workforce and the wider community.

### b. Similar Challenges to Gender Roles: Resistance & Empowerment

In her early 1990s study of rural Iowa, sociologist and feminist theorist

251. Both studies tended to focus on heterosexual, married couples. Nevertheless, divorced women were also occasionally discussed, with the authors suggesting that divorce was sometimes a consequence of the strain of economic restructuring. See Naples, *supra* note 15, at 122-27; Miewald & McCann, *supra* note 12, at 1045, 1052-53.

Another study, set in Vermont, was expressly limited to married couples. Nelson & Smith, *supra* note 57, at 81. They found that economic change in rural Vermont in the early 1990s also led to an increase in women's financial contributions to their families' budgets through the paid workforce and increased efforts in the informal economy. Although this study was sited in a rural Vermont county, a setting that no doubt limited economic options and contributed to the families' transportation challenges, the authors did not present the rural setting as significantly influencing the outcomes.

252. Agrarian ideology is "the celebration of farming and farmers as the heart of American society." It is characterized by traditional gender roles within the family, meaning that the woman's role as wife, mother and homemaker are paramount. Naples, *supra* note 15, at 115 (quoting and discussing DEBORAH FINK, *AGRARIAN WOMEN: WIVES AND MOTHERS IN RURAL NEBRASKA 1880-1940* (1992)). See also Struthers & Bokemeier, *supra* note 60, at 25 (observing in their study of rural families "the agrarian ideology of being self-sufficient by providing for yourself and family and engaging in non labor market activities largely consistent with farming"); Feyen, *supra* note 18, at 109-10 (noting rural farm wives being forced out of their roles as direct producers as a manifestation of the patriarchy associated with agrarian ideology).

Naples also studied these phenomena in relation to *gemeinschaft*. Naples uses that term to mean "close-knit ties among community members who help each other through difficult economic and emotional crises." She calls *gemeinschaft* a myth grounded in the "presumed homogeneity of beliefs and attitudes among community members." Naples, *supra* note 15, at 115 (citing KENNETH P. WILKINSON, *THE COMMUNITY IN RURAL AMERICA* (1991)).

253. See Naples, *supra* note 15, at 122-27.

254. See Miewald & McCann, *supra* note 12, at 1055.

Nancy Naples observed how “traditional gender ideology shape[d] material practices,” reinforcing gender inequality in the face of economic restructuring.<sup>255</sup> But Naples also saw economic restructuring as a challenge to gender roles because of shifts in the relative economic contributions of men and women.<sup>256</sup> Economic restructuring led women to renegotiate their roles as helpmates to their farmer-husbands,<sup>257</sup> changing where and how they lived and worked. While some women continued to work informally in their homes or beside their husbands on the farm,<sup>258</sup> others took work outside the home,<sup>259</sup> which made their labor more visible.<sup>260</sup> Among the jobs Naples observed women taking were teacher, child-care provider, nurse and nurse aid, clerical worker, social-service worker, waitress, and laborer in sewing and food processing factories.<sup>261</sup> Some community observers, such as bankers, tended to view women’s paid work as significant to rural families’ economic survival,<sup>262</sup> and some women also ultimately recognized the value of their own financial contributions.<sup>263</sup> While male farmers were also aware of this changed reality, they nevertheless maintained social dominance over their wives.<sup>264</sup>

Christiana Miewald and Eugene McCann studied economic change against a backdrop of historically rigid gender divisions of labor in Appalachian Kentucky: men in the mines and women with full responsibility for the children and household.<sup>265</sup> The authors found that mine closures and the ensuing economic crisis “pushed” many women into the workplace, but that women generally took jobs or informal work that were “extension[s] of their ‘natural’ roles.”<sup>266</sup> While these shifts left few men as sole breadwinners, most nevertheless failed to take on significantly greater roles in household work.<sup>267</sup> Men also resisted relaxation of the entrenched patriarchy by declining to take

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255. Naples, *supra* note 15, at 123. Naples describes perceptions of male and female pig farmers following their divorce: a social service agency and the Farmer’s Home Administration (“FmHA”) saw the woman’s pig farm as a hobby, which they urged her to abandon; in contrast, FmHA saw her former husband’s pig farm as his livelihood. *Id.*

256. *Id.* at 123.

257. *See id.* at 131-32; *see also* Miewald & McCann, *supra* note 12, at 1055-57.

258. Naples, *supra* note 15, at 114.

259. *Id.*

260. *Id.* at 122; *see also* Nelson & Smith, *supra* note 57, at 80 (citations omitted). Nelson and Smith note that when the norms within households change—as at times of economic restructuring—the “work of ‘doing gender’” is no longer taken for granted, but is made visible. This visibility demonstrates that households are critical units of economic life. Nelson & Smith, *supra* note 57, at 80.

261. Naples, *supra* note 15, at 114.

262. *Id.* at 124.

263. *Id.* at 123, 126.

264. *Id.* at 123-25 (noting contradictory messages sent by farm couple: she self-effacing about her role while he gave her credit, even as he dominated the interview in a way that hardly permitted her to speak).

265. Miewald & McCann, *supra* note 12, at 1051.

266. *Id.* at 1054.

267. *Id.* at 1055 (reporting that men generally only assisted if women complained).

retail or service work, which they saw as women's work.<sup>268</sup> They instead tended to choose informal economic activity that reflected their masculinity, including car repair, "serving as the volunteer fire chief, raising hogs, and helping out around the yard."<sup>269</sup>

These studies documented not only women's movement into the paid workforce, but also some of the gendered consequences of that migration. The Iowa study found that women entering the workforce often expressed enjoyment of their new roles and the opportunities to expand their friendship networks.<sup>270</sup> The women also began to appreciate the significance of their own financial contributions, even as they lamented how their paid labor detracted from their mothering and other care-giving roles.<sup>271</sup>

Some of the Kentucky women also reported feeling independent as a consequence of their labor force participation, despite the poor employment opportunities they found.<sup>272</sup> Indeed, a few felt sufficiently empowered to challenge the patriarchal division of labor and demand that their husbands assist with housework.<sup>273</sup> Some began to envision themselves in roles other than housewife.<sup>274</sup> Younger women in particular began to speak out about issues important to them, such as welfare reform and intimate abuse.<sup>275</sup> The Appalachian women thus began to take on roles in the public sphere of the formal market and politics.

Another consequence of the Kentucky women's increased participation in the paid work force was a shift in their roles in maintaining critical kinship networks. Because this was traditionally considered "women's work," these tasks suffered.<sup>276</sup> By way of example, one woman explained how she no longer had time to cook and bake when a need, such as a death, arose in the

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268. *Id.* As one wife described her husband, "He just doesn't see himself being able to do anything like working at Wal-Mart or something that may be feasible for him. It's not the pay, it's just that he can't see himself walking around talking to people." *Id.*; cf. Nelson & Smith, *supra* note 57, at 105 (finding that in households where neither partner had well-paying work, men were more likely to share domestic duties only if they still had more extensive labor force involvement than their wives).

269. Miewald & McCann, *supra* note 12, at 1055; see also Nelson & Smith, *supra* note 57, at 89-92 (describing the masculine nature of men's moonlighting and self-provisioning strategies; activities included auto body work and gathering wood); 95-96 (describing men in less fortunate families, those supported by bad jobs, as tinkering with and trading various types of vehicles); but see Naples, *supra* note 15, at 113 (reporting that in the wake of the farm crisis, men also worked off-farm, including in factories, and in seasonal and low-wage work).

270. Naples, *supra* note 15, at 126.

271. *Id.* at 125.

272. Miewald & McCann, *supra* note 12, at 1055.

273. *Id.* (reporting that men would only assist with household tasks if women complained).

274. *Id.* at 1057. The authors acknowledged that these rural Appalachian women had not yet achieved "egalitarian partnerships with men." They nevertheless suggested that, empowered by greater access to employment and education, the women were using strategies "aimed at reconfiguring household gender relations." *Id.*

275. *Id.* at 1060-61.

276. *Id.* at 1059-60.

community.<sup>277</sup> Rather, she had begun to *purchase* food for such occasions.<sup>278</sup> These women's "sense of place"—their culture—was thus reconfigured by economic change and its socio-spatial consequences.<sup>279</sup>

### c. Place Reconfigured: Gendered Consequences of Economic Restructuring

While the details of these two place-based studies varied with the geographic context and with the particulars of the economic change that sent women to work, some common socio-spatial themes emerged. Indeed, while the consequences of restructuring were material, they were also socially and spatially constructed. Moves into the paid labor force sometimes gave women access to money and other sources of power such as social networks or training opportunities.<sup>280</sup> The low-paying, low-status jobs they got, however, did not substantially increase their economic or social power.<sup>281</sup> Breadwinner ideology was so entrenched that even when women's earnings were significant, their contributions to the family coffers were viewed as marginal.<sup>282</sup> In addition, women who worked outside the home still retained responsibility for the bulk of domestic and care-giving work.<sup>283</sup> Consistent with other studies of rural places, gender dissonance was heightened when women became earners.<sup>284</sup>

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277. *Id.* at 1059.

278. *Id.*

279. *Id.* at 1060.

280. See PICKERING, *supra* note 16, at 215 (women who entered the labor market in the wake of welfare reform felt better about themselves); see also Lobao & Meyer, *Farm Couples*, *supra* note 246, at 210 (documenting women's decision-making roles in the context of farm families during the farm crisis of the mid 1980s); Naples, *supra* note 15, at 125 (explaining that jobs offered women an opportunity to expand their friendship networks).

281. See, e.g., Michael Selmi & Naomi Cahn, *Caretaking and the Contradiction of Contemporary Policy*, 55 ME. L. REV. 289 (2002) (suggesting skepticism about the care work effect); Peggie R. Smith, *Caring for Paid Caregivers: Linking Quality Child Care with Improved Working Conditions*, 73 U. CIN. L. REV. 399, 415-16 (2004) (noting that government training programs for child care workers are not inherently empowering as the workers face "low wages and lack of benefits").

282. See, e.g., Nelson & Smith, *supra* note 57, at 87-88; Naples, *supra* note 15, at 124 (noting women's descriptions of their income, whether in the formal or informal economy, as "supplemental"). Oberhauser's study of a rural West Virginia network of home knitters found that while their earnings were primarily supplemental to household incomes, they provided "important resources for household expenditures." Oberhauser, *Relocating Gender*, *supra* note 44, at 1229.

283. See, e.g., Naples, *supra* note 15, at 122-27. Oberhauser, for example, reported that one woman in her study earned 90% of the household income of \$11,000, while also home-schooling the children. Her husband pursued "odd jobs." Oberhauser, *Relocating Gender*, *supra* note 44, at 1233; see also Lobao & Meyer, *Economic Decline*, *supra* note 79, at 575-76, 598, 601 (noting that a traditional, gendered division of labor remained intact for many farm families during economic crisis, meaning that men worked more on the farm and women increasingly sought work off the farm, making women "triply burdened" with housework, farm work, and income-generating work; gender roles thus became more rigid).

284. See, e.g., Struthers & Bokemeier, *supra* note 60, at 28; Tickamyer & Henderson, *supra* note 44, at 112-14. An early 1990s study of rural Vermont also showed that women's entry into the paid labor force, especially when they earned as much or more than men, threatened

The net gains in money and status were thus minimal for most women.<sup>285</sup> Nevertheless, with the increase of rural women in the public sphere of the market, they became “differently positioned as potential workers.”<sup>286</sup> Some reported gaining confidence, along with job skills, as they reduced their isolation and dependence.<sup>287</sup> In short, they began to transcend the gendered dichotomy of production/reproduction, of public/private.<sup>288</sup>

### 3. Summary

In addition to revealing common themes between two rural locales facing economic restructuring, these studies demonstrate how attention to place recognizes distinct local and regional identities, including those with gendered connotations. Among these are the agrarian ideology of the Midwest<sup>289</sup> and Appalachia’s kinship networks.<sup>290</sup> Other socially constructed regional identities might include the tropes of rural folk in the West as hardy pioneers, rural Southerners as uneducated simpletons, and rural New Englanders as stoic traditionalists. While attention to the rural/urban axis is an important first step, acknowledging the great variety among rural locales is also essential. This variety stems not only from place-based differences, but also from those associated with degrees of rurality.<sup>291</sup>

These studies of place also demonstrate another theoretical concept of critical geography: scale. The changes discussed play out in the scales of the body and household, which are economically and socially enmeshed with the community, the region, and the globe. In the next Part, I take up the concept of scale and its implications for a more sophisticated understanding of rurality, gender, and law.

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men’s masculinity. Nelson & Smith, *supra* note 57, at 93-97, 106-07; *see also* Oberhauser, *Relocating Gender*, *supra* note 44, at 1231 (noting the “contentious nature” of income generation in the home, not a traditional site of economic activity).

285. *See* Tickamyer & Henderson, *supra* note 44, at 110.

286. Linda McDowell, *Linking Scales: or How Research about Gender and Organizations Raises New Issues for Economic Geography*, 1 J. OF ECON. GEOGRAPHY 227, 234 (2001), *quoted in* Miewald & McCann, *supra* note 12, at 1048 [hereinafter McDowell, *Linking Scales*].

287. *See, e.g.*, Oberhauser, *Relocating Gender*, *supra* note 44, at 1233-34.

288. *See* Miewald & McCann, *supra* note 12, at 1048-49.

289. *See* Naples, *supra* note 15.

290. Miewald & McCann, *supra* note 12, at 1058; Oberhauser, *Relocating Gender*, *supra* note 44, at 1226.

291. By the latter, I refer to the range of characteristics discussed in Part III: population density, physical isolation from urban centers, and degree of social and cultural integration with the urban. Rural places that are morphing into exurbia may, for example, present a wider array of options to women. These opportunities stem from the differing social, spatial, and economical construction of exurbia, as compared to more traditional, more isolated rural places.

### C. Scale

“The Personal is Political.”<sup>292</sup>

As the third major tool of geographers, scale represents another subset of spatial analysis.<sup>293</sup> It is defined as “the level of geographical resolution at which a given phenomenon is thought of, acted on or studied.”<sup>294</sup> Attention to scale allows assessment of social, economic, and legal experience at different spatial resolutions. An awareness of other spaces—greater and smaller, encompassing and nested within—enhances our understanding of those experiences.<sup>295</sup> When geography meets law, scale often equates with jurisdiction,<sup>296</sup> which is a proxy for where the power of decision-making resides, or the level of governmental interests that are implicated.

As with space and place, geographers’ typical use of scale reflects urban biases.<sup>297</sup> Tickamymer cites as examples research and policy analyses that assume poverty is a national problem, but then approach it with an urban bias.<sup>298</sup> She touts the opportunities that scalar analysis presents for scholars of the rural, particularly given the rich tradition of regional and community studies, as well as the literature on uneven development, inequality, and rural labor markets.<sup>299</sup>

Feminists have also criticized geographers’ use of scale, but for its masculine bias. In particular, feminists have sought to bring attention and credibility to the scales of the body and the household.<sup>300</sup> They note that “our understandings of the politics of place and scale must include the gendered struggles of everyday life,”<sup>301</sup> which they work to politicize.<sup>302</sup> Feminists thus

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292. Carol Hanisch, *Notes from the Second Year* (1969), quoted in YALE BOOK OF QUOTATIONS, *supra* note 228, at 337.
293. Neil Brenner, *The Limits to Scale? Methodological Reflections on Scalar Structuration*, 25 PROGRESS HUM. GEOGRAPHY. 591, 592 (2001) (noting a scalar emphasis “on process, evolution, dynamism, and sociopolitical contestation”) [hereinafter Brenner, *Limits to Scale*].
294. BRENNER, NEW STATE SPACES, *supra* note 19, at 9 quoted in Osofsky, *New Haven School*, *supra* note 8, at 447.
295. Tickamymer challenges scholars to consider which scale or unit of analysis can best be used in considering a particular form of inequality. See Tickamymer, *Space Matters!*, *supra* note 11, at 811. She suggests exploration of how systems of inequality operate in different locales, advocating attention to both local and “more complex models of socio-spatial processes.” *Id.* at 809.
296. Discussion of geography in legal contexts—scale, in particular—often implicates jurisdiction. See, e.g., Ford, *supra* note 165.
297. Political, economic and urban geographers discuss scale, for example, in the context of debates about globalization (including global-local relations) and urban-regional restructuring. See Brenner, *Limits to Scale*, *supra* note 293, at 591 (calling scale a “buzzword of sorts in recent debates”).
298. Tickamymer, *Space Matters!*, *supra* note 11, at 809.
299. *Id.* at 809.
300. See, e.g., Miewald & McCann, *supra* note 12, at 1046; Marston, *infra* note 303.
301. Miewald & McCann, *supra* note 12, at 1045 (abstract) (asserting position in the context of studying economic restructuring of Appalachian coalfields).
302. *Id.* at 1047. Their suggestion, of course, is akin to the old feminist adage that the personal is political. Miewald & McCann explain that “the conduct of politics involves a constant

argue that these “lower end” scales—associated with women and private spaces—deserve a place at the “high table of scale,” along with the national and the global.<sup>303</sup> Their argument is similar to that of feminist legal scholars, who have revealed the gendered nature of federal jurisdiction, which eschews authority over the family.<sup>304</sup>

Feminist geographers also emphasize the inter-scalar character of the processes that define spaces and places.<sup>305</sup> Using the nesting metaphor to describe relationships among scales, Tickamyer observes that households and labor markets influence each other in their operation as both economic and spatial units.<sup>306</sup> She notes intersections “at their margins, blurring distinctions between different forms of work: waged and non-waged, formal and informal, productive and reproductive, and how these are gendered, raced, and spaced.”<sup>307</sup>

While rural places tend to be conceptualized as intrinsically local—indeed, quintessentially so—forces originating at myriad scales are at play there.<sup>308</sup> As Linda McDowell expresses it, “a place—a village, a small town, or a region—may be local in the sense of a geographically small unit but it is constituted by social processes that operate at a variety of scales.”<sup>309</sup> Again, we can draw a parallel to the feminist scholarship on federal jurisdiction, which has challenged women’s association with the local in claiming that violence against women implicates the commerce clause of the U.S. Constitution.<sup>310</sup>

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interplay between supposedly public and private sites of struggle, as ‘roles and identities [are] conditioned by power relations at several scales and settings (i.e., the home, workplace, political organization, city and society).’” *Id.* at 1049 (quoting L.A. Staeheli, *Gender Relations in Urban Growth Politics*, in *MARGINALIZED PLACES AND POPULATIONS: A STRUCTURATIONIST AGENDA* 129, 133 (David Wilson & James O. Huff eds., 1994)).

303. See Sallie A. Marston, *The Social Construction of Scale*, 24 *PROGRESS IN HUMAN GEOGRAPHY* 219 (2000); Sallie A. Marston & Neil Smith, *States, Scales and Households: Limits to Scale Thinking? A Response to Brenner*, 24 *PROGRESS IN HUMAN GEOGRAPHY* 615, 617 (2001). Marston and Smith write: “Middle-class women’s identity struggles over domestic ideology and practice not only transformed the home and the household around the turn of the century but simultaneously provided a scale basis from which women’s organizations contributed to a powerful reshaping of state territorial organization in the USA.” *Id.* See also Miewald & McCann, *supra* note 12 (referring to the “microsites” of the body and the household as “scalar”).
304. See, e.g., HANSON & PRATT, *GENDER, WORK & SPACE*, *supra* note 163, and Hanson & Pratt, *Geographic Perspectives*, *supra* note 163.
305. MCDOWELL, *supra* note 7, at 3. Spaces and places are “produced by the intersection of global and local processes—social relations that operate at a range of spatial scales.” *Id.* at 4. McDowell uses home and neighborhood as examples of localities “bounded by scale—that is rules/power relations that keep others out.” *Id.* at 3. She observes, however, that a given place’s “constitution is through the intersection of a range of factors that may coincide there but are not restricted to the local level in their operation.” *Id.*
306. Tickamyer, *Space Matters!*, *supra* note 11, at 809.
307. *Id.*
308. Massey asserts that “place” and “local” are coded feminine. See *supra* note 7 and accompanying text. “Rural” is also coded this way, while “urban,” like space and that which is abstract, is coded masculine. See ROSE, *supra* note 7, at 74.
309. McDowell, *Linking Scales*, *supra* note 286, at 229; see also Tickamyer, *Space Matters!*, *supra* note 11, at 809.
310. See, e.g., Resnik, *supra* note 173, at 627-28 (referring to the extensive congressional record

The studies discussed in Part III.B illustrate the scalar interdependence that constitutes spaces and places, even rural ones. Global economic shifts set in motion changes that reverberated down to the household and body. As women took waged work (formal, productive) outside the home, they attempted to renegotiate their domestic and community roles (non-waged, informal, reproductive). The socio-spatial repercussions of rural economic restructuring were manifest at several scales, in particular places.<sup>311</sup> In both initiating changes and mediating their consequences, laws and legal actors played roles, albeit sometimes passive ones.

#### IV. THE ROLE OF LAW

Law and its agents are actors in these interscalar events, in shifts of the socio-spatial landscape of particular places. Law is implicated at scales associated with the market and politics, for example, by regulating employee protections, labor law, and free-trade agreements. Laws and legal regulations also influence individual actors, constituting space and place at the scales of the body and the household. This can be seen in divorce and child custody disputes, or when domestic violence erupts. In the face of such events, the law dictates who has what rights, who gets what (in terms of property and children, for example), and who bears what consequences or costs.

As I have documented elsewhere, law's application may vary between rural and urban settings.<sup>312</sup> In divorce proceedings, for example, courts in rural states may divide property in a way that keeps a family farm intact.<sup>313</sup> In child custody matters, some judges may favor the parent who lives in the rural place because it is seen as providing a safer, more child-friendly environment,<sup>314</sup> while

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regarding the economic impact of violence on women's working lives, such as placing certain jobs out of reach); Deborah Weissman, *Gender-based Violence as Judicial Anomaly: Between "the Truly National and the Truly Local,"* 42 B.C.L. REV. 1081, 1082, 1089, 1091 (2001) (arguing that violence against women is a national problem because it prevents women from participating fully in the national economy and therefore implicates the Commerce Clause). See also *supra* Part IV.C.

311. Miewald & McCann, *supra* note 12, at 1061.

312. See generally Pruitt, *Rural Rhetoric*, *supra* note 27 (documenting a range of legal double-standards based upon the rural-urban axis); Pruitt, *Feminist Theory of the Rural*, *supra* note 6. Some of this variation may be inevitable because of difference in size, with rural areas unable to achieve economies of scale and to provide many of the services that urban areas take for granted. For an exposition on size-based asymmetry in a different legal context, see Robert T. Laurence, *Symmetry and Asymmetry in Federal Indian Law*, 42 ARIZ. L. REV. 861 (2000).

313. See *In re Marriage of Jacobson*, 600 P.2d 1183, 1186-88 (Mont. 1979) (stipulating the priority of keeping the family farm intact upon divorce when there is "a reasonable means of providing a wife her equitable share of the marital property short of selling the land"), quoted in *In re Marriage of Gomke*, 192 Mont. 169, 627 P.2d 395, 396 (1981); see also *In re Marriage of Glass*, 697 P.2d 96, 100 (Mont. 1985). The court has since clarified that a family farm need not be retained intact, although Montana policy favors it when distributing marital property. In *re Marriage of Binsfield*, 888 P.2d 889, 894 (Mont. 1995).

314. See *Odegard v. Odegard*, 259 N.W.2d 484, 486-87 (N.D. 1977) (awarding custody to the father; court was not swayed by the mother's argument that if her son was left with father to



others will prefer urban locales, which they view as providing greater opportunity.<sup>315</sup> As for domestic violence, although both its incidence and its ferocity tend to be greater in rural places, law enforcement and prosecutorial efforts are weaker and less consistent there.<sup>316</sup> Courts may also overlook—or expressly deny—the enhanced physical vulnerability associated with rural spatiality.<sup>317</sup>

Other double standards that align with the urban/rural axis may operate with regard to laws regulating employer-employee relations.<sup>318</sup> Many rural employees are ineligible for federal protections because they are not formally employed or because their employers have too few employees to be subject to federal regulation.<sup>319</sup> Employers with fewer than fifty employees, for example, are not subject to the Family and Medical Leave Act (FMLA),<sup>320</sup> and those with fewer than fifteen are not subject to Title VII mandates.<sup>321</sup> While these laws do not expressly distinguish between urban and rural employers, their application (or lack thereof) may disparately impact rural residents—especially rural

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be raised on the farm he would most likely become a farm laborer). *See also* Pruitt, *Rural Rhetoric*, *supra* note 27 (discussing relevant cases).

315. *See* Berg v. Berg, 490 N.W.2d 487 (N.D. 1992) (awarding custody to mother, the better-educated parent, who planned to take children away from North Dakota to further her career). In his dissent, Justice Wright indignantly defends the rural as one that stresses quality of life and sarcastically notes that the children might want to be farmers like their father. *Id.* at 495 (Wright, J., dissenting).
316. *See* Pruitt, *Place Matters*, *supra* note 17. Studies show that the less densely populated a place and the greater its distance from an urban area, the more likely a killer was a family member or intimate partner of his victim. *Id.* (citing Adria Gallup-Black, RURAL AND URBAN TRENDS IN FAMILY AND INTIMATE PARTNER HOMICIDE: 1980-1999 (2004)). Further, according to a pilot study, rural perpetrators of intimate abuse are nearly twice as likely as their urban counterparts to inflict severe physical injuries, as by using a weapon. They are also twice as likely to destroy property during the event. *Id.* (citing T.K. Logan et al., *Qualitative Differences Among Rural and Urban Intimate Violence Victimization Experiences and Consequences: A Pilot Study*, 18 J. FAM. VIOLENCE 83, 86 (2003)).
317. *See* Kodras & Jones, *supra* note 114, at 122-23; *see also* Pruitt, *Feminist Theory of the Rural*, *supra* note 6, at 450-53.
318. An example of how labor law may expressly vary in its operation as between rural and urban settings is found in *Southside Hosp. v. Davis*, 252 N.Y.S.2d 350 (1964). There, a New York Supreme Court upheld a law that allowed New York City hospital workers to strike, while disallowing rural hospital workers from doing so. One example of how employee protections may be sensitive to the rural context is seen in a 2003 decision, *Zeller Elevator Co. v. Slygh*, 796 N.E.2d 1198, 1201-05, 1215-16 (Ind. Ct. App. 2003) (focusing on the rural setting of the place of employment in relation to the vulnerability that the female plaintiffs experienced when employer appeared semi-clad, showed pictures of himself skinny dipping, and called them into his bedroom, which was on the workplace premises).
319. *See* CORNELIA BUTLER LORA & JAN FLORA, RURAL COMMUNITIES: LEGACY AND CHANGE 102 (3d ed. 2008)
320. 29 U.S.C. § 2601 (2000).
321. *See* 42 U.S.C. § 2000e(b) (2000). Another example is the Worker Adjustment and Retraining Notification Act (WARN), which applies only to employers with 100 or more employees. 29 U.S.C. § 2101 et seq. (2000). Also, agricultural employers who did not use more than 500 person days of labor during any quarter in the preceding year are not required to comply with the minimum wage and overtime requirements of the Fair Labor Standards Act. 29 U.S.C. § 213 (a)(6) (2000).

women—who often work informally or are employed by small businesses.<sup>322</sup>

Reflecting the multi-scalar nature of law, as well as phenomena such as rural restructuring which implicate it, state employment laws may lower some of these employee-count thresholds to protect the rights of more workers.<sup>323</sup> The complex nature of employment protections illustrate the inter-scalar character of the legal issues arising from them, including their manifestation in rural locales. In the employment setting, then, regulation originates at several scales: the federal (e.g., FMLA or Title VII), the state (laws mirroring federal protections but sometimes altering criteria),<sup>324</sup> and even the local, as with municipal ordinances that prohibit the hiring of unauthorized immigrants.<sup>325</sup>

Another example where legal actors at multiple scales are implicated is domestic violence.<sup>326</sup> It is the criminal law of *states* that prohibits intimate abuse, but the state is not the only scale (law) relevant to this phenomenon. Lower scales, such as county, city, or town, greatly influence how victims, perpetrators, and legal actors respond to the crime.<sup>327</sup> These local considerations include staffing levels of law enforcement personnel, their education regarding family violence,<sup>328</sup> and their familiarity with the parties.<sup>329</sup>

Federal decisions will also be relevant to factors that might appear quite local, such as the availability of social services<sup>330</sup> and physical infrastructure, such as a women's shelter<sup>331</sup> or a sufficiently large jail.<sup>332</sup> In spite of a 2000

322. See *supra* Part III.B.1; see also STATISTICS ABOUT BUSINESS SIZE FROM THE U.S. CENSUS BUREAU, <http://www.census.gov/epcd/www/smallbus.html> (last visited Apr. 14, 2008); U.S. CENSUS BUREAU, STATISTICS OF U.S. BUSINESSES, <http://www.census.gov/csd/susb/susb05.htm> (U.S. and all states, total) (last visited Apr. 14, 2008).

323. Eleven states have adopted their own FMLA laws, of which six have reduced the number of employees an employer may have in order to be covered. Of these six, four have significant rural populations: Maine, Minnesota, Oregon, and Vermont. These cover care for a sick relative, not pregnancy leave. See U.S. Dep't of Labor, <http://www.dol.gov/esa/programs/whd/state/fmla/index.htm> (last visited Oct. 22, 2008).

324. See, e.g., CAL. LAB. CODE § 1400 (2006); CAL. GOV'T CODE § 12926(p) (1997).

325. See, e.g., Michael A. Olivas, *Immigration-Related State Statutes and Local Ordinances: Preemption, Prejudice, and the Proper Role for Enforcement*, 27 U. CHI. LEGAL F. 55 (2007) (demonstrating that sub-federal assumptions of immigration power lead to prejudicial local and state laws); Pruitt, *Latina/os, Locality*, *supra* note 56, at Part IV. Hazelton, Pennsylvania's now well-known ordinance making it illegal for unauthorized immigrants to work and rent homes in the city was voided by a federal judge because the ordinance interfered with federal law, which regulates immigration issues, and for violating the due process rights of employers, landlords, and immigrants. Julia Preston, *Judge Voids Ordinance on Illegal Immigrants*, N.Y. TIMES, July 27, 2007, at A14. After a series of rulings along these lines, federal judges in Missouri, Arizona, and Oklahoma have upheld local and state anti-immigrant laws. Julia Preston, *In Reversal, Courts Uphold Local Immigration Laws*, N.Y. TIMES, Feb. 10, 2008, at A22.

326. See Pruitt, *Place Matters*, *supra* note 17, at Part IV.

327. See, e.g., Feyen, *supra* note 18, at 111-12, 114-17.

328. See WEBSDALE, *supra* note 175, at 106, 108.

329. See, e.g., Feyen, *supra* note 18, at 111-13; WEBSDALE, *supra* note 175, at 84.

330. See Adria Gallup-Black, RURAL AND URBAN TRENDS IN FAMILY AND INTIMATE PARTNER HOMICIDE: 1980-1999 (2004).

331. See, e.g., Feyen, *supra* note 18, at 102, 105 (finding that shelter in rural River County,

Supreme Court decision declaring domestic violence to be “truly local,”<sup>333</sup> and striking as unconstitutional a civil rights remedy under the Violence Against Women Act (“VAWA”), funding under that Act continues to support programs aimed at reducing the incidence of domestic violence and improving its investigation and prosecution.<sup>334</sup> The Office of Violence Against Women recognizes rural women as an at-risk population, and one category of VAWA grants is for programs in rural areas.<sup>335</sup> Federal funds may also be used, for example, for renovating or replacing a substandard jail.

These are just a few examples of the multi-scalar nature of issues arising for rural women at the junctures where they encounter law—or at least where they might if legal actors were more present, or if the law were available to them in a more meaningful way. These examples also illustrate how geography influences legal outcomes. Spatiality thus constitutes law, whether by assuming and declaring rural difference—or by overlooking it. Law also constitutes spatiality by influencing behavior—sometimes even dictating it—within spatial containers, whether great or small, public or private, urban or rural. In rural locales, however, law’s influence may be greatest in its perceived irrelevance, inaccessibility, or even in its complete absence.

## V. CONCLUSION

More than a decade ago, rural sociologist Ann Tickamyer initiated (or attempted to initiate) a conversation with legal scholars about rural women, law, and spatiality.<sup>336</sup> Her 1996 article seems to be the earliest attempt in legal

Wisconsin, had been established only in 1979; it served a county of 18,000, but only 25% of the county’s populace lived in the town where the shelter was located; only 22% of those who had used the shelter lived in that town); Struthers & Bokemeier, *supra* note 60, at 32 (finding in study of rural Michigan that while some shelters were available for women, the shelters did not accommodate children); Ralph A. Weisheit & Joseph F. Donnemyer, *Change and Continuity in Crime in Rural America*, in CRIMINAL JUSTICE 2000, VOLUME I: THE NATURE OF CRIME: CONTINUITY AND CHANGE 309, 323 (Gary LaFree ed., 2000) (finding that 68% of rural counties had no shelters and for those counties without one, the average distance to a shelter was 36 miles).

332. The dilemma of my home community over a substandard, too-small jail, built in 1903, is illustrative. Although Newton County has known of the deficiencies for some time, it has no money to remedy the situation. See Jeff Dezort, *Jail should be in the Smithsonian*, NEWTON COUNTY TIMES, Oct. 11, 2007, at 1 (discussing as possible funding sources a property tax increase or a USDA public building safety grant); Sharon C. Fitzgerald, *Sheriff Struggling to Keep Jail Open*, ARK. DEMOCRAT GAZETTE, Feb. 12, 2007, at 1B. In June, 2008, the jail was closed following the suicides of two inmates within a one-month period. It reopened in mid-July 2008, although the state’s Criminal Detention Review Committee has given the county just six months to bring the facility into compliance with state requirements. *County Jail May be Closed*, NEWTON COUNTY TIMES, July 10, 2008, at 1.
333. *United States v. Morrison*, 529 U.S. 598, 617-18 (2000). The court wrote, “[g]ender-motivated crimes of violence are not, in any sense of the phrase, economic activity.” *Id.* at 613.
334. See 2006 VAWA BIENNIAL REPORT, *supra* note 27.
335. *Id.* Other grant categories include tribal units and campuses. *Id.* The Act’s definition of “rural” is given at *supra* note 27. See generally Pruitt, *Place Matters*, *supra* note 17, at Part I.
336. Tickamyer, *Private Lives*, *supra* note 72.

scholarship to bring critical geography to bear on women's lives, with particular attention to poor, rural women. Yet legal scholarship continues to ignore the rural milieu, including gender issues in that context. In spite of this oversight, and to some extent because of it, the opportunity presented by critical geography remains great.

Thinking about rurality in terms of "space" reminds us, for example, of literal distance—both between the rural and the urban, and among those who reside in rural communities. As a consequence of this first aspect of rural spatiality, rural people and places are largely unseen by broader society.<sup>337</sup> Further, rural spaces are considered more private relative to urban and suburban spaces,<sup>338</sup> while women's roles and identities within rural communities are more associated, literally and figuratively, with the private.<sup>339</sup> Functioning in spaces that are private in the extreme burdens and constrains rural women in myriad ways, as does the immobility associated with those spaces.<sup>340</sup>

Other aspects of rural spatiality also invite our attention, particularly as they relate to gender. Socioeconomic disadvantage—all too often rising to the level of poverty—is part and parcel of the socio-spatial landscape of rural America.<sup>341</sup> Sparseness of population, a material aspect of spatiality itself, contributes to socioeconomic disadvantage because it results in—and is a result of—fewer jobs, fewer services, and a less diversified economy. Women are particularly vulnerable in this context because of the acute wage gap between rural men and women, as well as the entrenched form of rural patriarchy that keeps women's domestic duties primary.

Lack of anonymity, a consequence of rural spatiality, is another significant feature of the rural socio-spatial landscape. This feature influences decision making and circumscribes agency. It also explains how physical distance constructs spaces in ways that foster physical privacy, while also creating vulnerabilities for rural women and undermining the sort of privacy that is associated with anonymity.<sup>342</sup>

Attention to "place" moves us beyond the broad rural/urban axis. It adds

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337. See Pruitt, *Rural Rhetoric*, *supra* note 27, at 164 (observing that fewer people now have meaningful contact with rural places, leaving them to rely on stereotypes to form their impressions of the rural); WEISHEIT ET AL., *supra* note 181, at 14 (hypothesizing a lower awareness of rural crime because, among other reasons, major media outlets are centered in large cities).

Indeed, rural visibility may be diminishing as our nation is increasingly urbanized. The world's rural population is also shrinking, with half now living in cities. Celia W. Dugger, *U.N. Predicts Urban Population Explosion*, N.Y. TIMES, June 28, 2007, at A6.

338. See *supra* Part IV.A.2.a.

339. See *supra* notes 57-70, 103-05 and accompanying text.

340. See *supra* Part IV.A.2.b.

341. As Ching and Creed have written, class "is the dimension of contemporary identity politics most explicitly connected to rural identities . . . the cultural devaluation of rural people often reflects their economic marginality." Ching & Creed, *supra* note 19, at 26.

342. See Elizabeth Schneider, *The Violence of Privacy*, 23 CONN. L. REV. 973, 993 (1990-91) (making a similar point about the duality of private spaces like the home).

texture and value by making room for explicit consideration of regional identities, cultures,<sup>343</sup> and economies, with their attendant structures of inequality. This analytical tool helps us see and understand these differences among rural places, including those falling at different points along the rural/urban continuum.

Legal actors and policy-makers whose decisions affect rural populations, as well as gender scholars and rural scholars, must explore the repercussions of these socio-spatial features and place-based differences. Intentionality about space and place helps us guard against conflating the idea of a universal women's experience with urban women's experience. It allows us to contemplate not only how a rural woman's experience of gender inequality may differ from that of her urban counterpart, but also how oppression on the basis of race, ethnicity, or sexual orientation may "take a different form . . . in the countryside."<sup>344</sup> Indeed, just paying attention to rurality "can be a crucial form of cultural awareness and resistance."<sup>345</sup>

The temporal is relevant, too, of course.<sup>346</sup> Changes wrought at specific times and over time have socio-spatial consequences in actual places. In this era of transformation and restructuring for many rural people and places, vigilance is necessary regarding assumptions about rurality. When the "rural" is more contested than ever,<sup>347</sup> we must be open to how demographic, economic, and social changes are reconstructing rural spaces, altering rural power structures, and aggravating or ameliorating spatial and other inequalities.<sup>348</sup>

Professor Hari Osofsky asserts that doing legal analysis in spatial context is critical in light of ever-increasing "complexities of scale, interrelatedness of people, entities, and institutions, as well as a multiplicity of connections to and

343. Several recent contributions to legal scholarship about gender have recognized such regional differences. See, e.g., Jerome Nadelhaft, *"The Public Gaze and the Prying Eye": The South and the Privacy Doctrine in Nineteenth Century Wife Abuse Cases*, <http://www.ssrn.com/abstract=984736>; Naomi Cahn & June Carbone, *Deep Purple: Religious Shades of Family Law*, 110 W. VA. L. REV. 459 (2007) (discussing the impact of religious practices and culture, which varies from place to place, on the issue of abstinence education); Naomi Cahn & June Carbone, *Red Families v. Blue Families*, available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1008544](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1008544) (working paper) (discussing the differences between families in different parts of the country with particular attention to age at family formation as influencing attitudes about premarital sex, connection between marriage and childbearing, and rates of divorce, among others).

344. Ching & Creed, *supra* note 19, at 3; see also Mormont, *supra* note 9, at 36-37 (advocating that space be considered an element of identity in relation to other characteristics, which he calls "a field of relationships").

345. Ching & Creed, *supra* note 19, at 9-10.

346. See *supra* notes 2-5 and accompanying text.

347. See *supra* Part III.A.

348. See Tickamyer, *Space Matters!*, *supra* note 11, at 806-08; see also Lobao, *Gendered Places*, *supra* note 108, at 272-73 (observing that "gendered places are created from the bottom up . . . by the routine behavior of people in bars, on farms, and in small towns" and that changes in how gender is constructed occur incrementally); Madhavi Sunder, *Cultural Dissent*, 54 STAN. L. REV. 495, 496-501 (2001) (arguing that modernity is defined by "cultural dissent," the efforts by individuals to challenge and reinterpret cultural norms in ways favorable to them).

disconnection from place.”<sup>349</sup> Although Osofsky’s focus is international law, her assertion is “spaceless”: it rings true even in relation to rurality. While that which is rural has long been thought of as quintessentially local, rural livelihoods are no longer isolated economically and culturally from the rest of the country, or from the rest of the world. Though rural places are physically and socially removed from urban America to differing degrees, advances in technology and transportation have blurred aspects of the rural/urban divide. Rural locales are increasingly enmeshed with higher scales and other places, even as spatial isolation and its many consequences constitute (and are constituted by) rurality, influencing events and legal outcomes.

Law is called to understand how “power operates through and in spaces and places”<sup>350</sup>—to investigate how space is used to perpetuate disadvantage, inequality, and oppression.<sup>351</sup> Otherwise, space “hides things from us.”<sup>352</sup> Nowhere, perhaps, is this more so than in the increasingly obscured spaces and places of rural America. With respect to few groups is this as true as for women who—especially in rural places—populate the already hidden spaces of the private sphere.

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349. Osofsky, *Litigation as Pluralist Dialogue*, *supra* note 111, at 190.

350. Tickamyer, *Space Matters!*, *supra* note 11, at 806-07 (citing SOJA, *THIRDSPACE*, *supra* note 19, at 84-87) (emphasizing that power is contextualized and made concrete through the production of social space; employing the work of bell hooks, who characterized the space of everyday life as a place where all forms of oppression can be found, to illustrate the significant role that space and geography play in the study of race relations).

351. *Id.* In his work on race, Reginald Oh similarly calls on critical scholars to “explicitly theorize about space, because the organization and production of space is ultimately about social and political control and power.” Reginald Oh, *Re-Mapping Equal Protection Jurisprudence: A Legal Geography of Race and Affirmative Action*, 53 AM. U. L. REV. 1305, 1315 (2004).

352. SOJA, *POSTMODERN GEOGRAPHIES*, *supra* note 1, at 60.