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AND EARNINGS

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Abstract

Whether employed in the labor market or not, married women on average spend considerably more time on home production than their husbands do. This paper examines labor market and legal issues associated with time spent on home production. The observed gender-based allocation of labor is consistent with economic theories of marriage and bargaining within the household. However, wives' contribution to family welfare via home production comes at a personal cost: time spent on housework has a substantial negative impact on own wages. Wives' willingness to incur this opportunity cost is also an indication that housework has real economic value.

Since economic loss in the event of disability or wrongful death includes the value of lost home services. As a result, valuing home production time is an essential component of personal injury litigation. Similarly, in many divorce cases, the main claim of wives to the assets accumulated during marriage is their contribution to home production. I summarize the empirical evidence on home production time and discuss methods of valuing this time. To demonstrate the salient legal issues, I discuss the *Wendt v. Wendt* divorce case, in which Lorna Wendt claimed that her role as a corporate wife was essential to her husband's career success, entitling her to a larger share of the marital assets than conventionally awarded.

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Marriage, Home Production, and Earnings

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Survey data and time diaries indicate that employed married women spend two to three times as much time on housework as their husbands. This chapter deals with two important sets of implications associated with time spent on home production: labor market outcomes and legal issues involving home production.

First, labor market opportunities and outcomes are affected by time in home production, via lower job skill acquisition, more limited professional opportunities, and lower wages. Second, home production has important implications in a litigation context. In the case of wrongful death litigation, the economic loss will be the sum of the value of lost earnings and the value of lost home services. In many cases the economic loss of a wife's home services exceeds her earnings loss. This is due to the large amount of time spent by wives on home production, as well as to the lower market earnings that result from this time allocation. Similarly, in many divorce cases, the main claim of wives to the assets accumulated during marriage is their contribution to home production.

The chapter discusses economic theories that lead to the division of home production time along observed gender lines, evidence on the allocation of home production time between spouses, and the economic consequences of this division. To demonstrate the salient legal issues, I discuss the *Wendt v. Wendt* divorce case, in which Lorna Wendt

¹ Harvard Law School. Forthcoming in *Marriage and the Economy*, edited by Shoshana Grossbard-Shechtman. I acknowledge with gratitude research support from the John M. Olin Center for Law, Economics, and Business at Harvard Law School.

argued that her role as a corporate wife was essential to her husband's career success, entitling her to a larger share of the marital assets than conventionally awarded.

I. Who does the housework: theory

Does marriage itself, or expectations of marriage, lead to women earning less than men? Under certain assumptions, economic analysis predicts precisely this outcome. Leaving aside the determination of who marries and who marries whom, let's consider a married household with two adults. Goods consumed at home can either be purchased in the market or produced at home in combination with purchased goods. Theories of specialization and exchange imply that it is optimal for one spouse to specialize in home production and for the other spouse to specialize in labor market work (Gary Becker 1991). In doing so, the household maximizes its utility and generates greater output to be shared among the household than the sum of the individual outputs. Households produce private goods, consumed only by individuals, as well as public goods that are shared by all members of the household, without reducing any individual's consumption. For example, if a wife washes her husband's laundry, this is a private good that benefits only him directly (although see the Wendt case discussed later for an example of investing in the husband as an investment in family human capital.) Raising nice children is an example of a public good that both parents can enjoy.

The spouse who specializes in home production will optimally invest less in labor market skills, such as education and job training. Economic theory, supported by a vast number of empirical studies, predicts higher earnings for individuals with greater amounts of labor market oriented human capital.

While theories of specialization and exchange predict that members of households will specialize in either labor market work or in home production, these theories alone do not predict which spouse will specialize in which activity. The observed gender-based division of labor within the household can be explained by theories of comparative advantage and from bargaining models of marriage, discussed below.

According to the theory of comparative advantage, it is optimal for the spouse with the lower opportunity cost to specialize in home production, where the opportunity cost is given by the value of the best alternative use of the time. In this context, the opportunity cost is the wage rate the individual would earn in the market. Since women on average earn less than men do, their opportunity cost is lower on average. Of course, the lower expected earnings of women may result from a self-fulfilling cycle: women anticipate earning less (perhaps due to discrimination or due to preferences about the lifetime allocation of time to market work), which lowers their optimal investment, which lowers their wage, and so on.

Even if there are no differences by gender in market wage, if there are innate gender differences in home production skills, then it will be optimal for the spouse with the comparative advantage to specialize in home production. By observing the labor market, it seems unlikely that there are innate gender differences in housecleaning skill, cooking, or laundry, since we observe male and female janitors, cooks and chefs, and laundry workers. However, only women are able to bear children, and in the past many women interrupted their labor market careers for child rearing. This time away from the labor market reduces the time available for a woman's investment in labor market skills as well as possibly depreciates her existing stock of market-related human capital. In the past,

this pattern would lead to women developing a comparative advantage in home production, leading to the observed gender based division of labor within the household. Of course, as women spend less time away from the labor market, and as the gap in entry-level wages by gender continues to shrink, this argument has less merit as a rationale for a gender-based division of labor within the home.

The bargaining models of Marilyn Manser and Murray Brown (1980) and Marjorie McElroy and Mary Jean Horney (1981), and the market models of marriage of Becker (1973) and Amyra Grossbard-Shechtman (1984) predict that the partner who will be relatively better off if divorced has greater bargaining power. If housework is considered undesirable, the spouse with the weaker bargaining position will perform a greater share of the household responsibilities. Since on average the husband has higher earnings, he is better able to purchase market substitutes for home produced goods possibly provided by his wife and thus has a relatively stronger bargaining position.

The separate spheres bargaining model of Shelly Lundberg and Robert Pollak (1993) implies that specializing along gender lines is a means of reducing the costs of coordinating behavior in producing household public goods. Rather than using divorce as the threat, this model allows spouses to maximize household welfare with minimal interaction. For instance, the main public good of a household is children, and defaulting to stereotypical gender roles in raising children reduces spouses' needs to discuss and coordinate behavior.

II. Who does the housework: evidence

As we saw in Section I, several different economic theories predict that wives will perform a greater share of housework than their husbands do. In this section we examine the empirical evidence on time spent on home production.

Time allocation is one of the fundamental issues addressed by economists and, accordingly, substantial work has been done in this area. Much of the theoretical analysis stems from Jacob Mincer (1963) and Becker (1965). Becker provides a general model in which individuals act to maximize their utility by allocating their time between labor market employment and a wide variety of household production activities. Time spent on household production is combined with purchased goods to produce utility generating consumption goods, thus emphasizing the productive nature of household time.

Reuben Gronau (1977) simplifies the Becker model to the case in which time has only three uses: production in firms, home production, and leisure. Home production is best defined as those activities that can be done by paying a third party. Leisure is an activity that can only be enjoyed if done by oneself, such as reading a book or riding a bike. However, no data source elicits time use in this fashion, and so our information on home production time is imperfect.

Table 1 summarizes time on home production reported in representative studies.²

The statistics in this table are derived from two types of studies. The most reliable

² F. Thomas Juster and Frank Stafford (1991), Beth Anne Shelton (1992) and John Robinson and Geoffrey Godbey (1997) are excellent sources of information on time use. Juster and Stafford provide a survey of the time allocation literature, from both a national and an international perspective. The focus in Shelton is on time use differences by gender. Robinson and Godbey report trends in time use from the Americans' Use of Time Project for the years 1965, 1975 and 1985.

method of gathering time use data is from time diaries. Using this method, respondents report in chronological order and in their own words what they were doing at each moment of the previous 24-hour period.

The second source of information on time allocation is provided by surveys that ask respondents to simply report the total time spent on labor market hours and household activities. National data sets that report estimated time spent on housework in addition to a wide array of information on labor market activity and demographics include the Quality of Employment Surveys (QES), the Panel Study of Income Dynamics (PSID), and the National Survey of Families and Households (NSFH). While the wording varies among these surveys, in all these surveys the respondents are usually asked to report how much time they spend on activities such as cleaning, cooking, and laundry during the week.

The two methods typically give rather divergent values. By design of time diaries, the total time spent on all activities must sum to the 1,440 minutes of the day. In contrast, surveys frequently indicate estimates of time use that are unrealistically high or even exceed the total available time in the relevant period (e.g., 168 hours in a week).

Since time diaries record all activities, the analyst can identify those activities that represent home production, and sum over the relevant activities to get measures as aggregated or detailed as desired. On the other hand, survey estimates are highly influenced by how the respondent interprets the question. For instance, since the PSID does not separately request information on time spent shopping or paying bills, it is unclear whether respondents implicitly include these activities in reported housework time. Neither the PSID nor the NSFH ask specifically about time spent in childcare,

although much of time spent on childcare is doubtlessly included in the reported time spent on household activities in general.

Both methods present challenges in distinguishing between home production time and other time uses. Recall that home production is best conceptualized as those activities that can be done by paying a third party. Are gardening or playing with one's children home production, or are they leisure activities? The interpretation of both time diary information and survey estimates is further complicated by the joint production nature of many household activities. It is common to fold laundry or cook while on the phone or while watching television, and time spent caring for children is often combined with other productive activities, especially while the child sleeps or watches television.³

As noted in Table 1, it is clear that women average far more time on home production than men, regardless of the method utilized to measure housework time. To give some idea of the magnitudes and the trends, using time diary information, Robinson and Godbey (1997) report that in 1985 men spent on average 15.7 hours per week on housework, up from an average of 11.5 hours per week in 1965. Women, by contrast, have experienced a large drop in their average housework time over this period, from 40.2 hours per week in 1965 to 30.9 hours per week in 1985. Using time diary data for 1975, Martha Hill (1985) reports that full-time employed married women average almost 25 hours in home-oriented work. In contrast, married men employed full-time average only half that amount, at 12.7 hours per week.

III. The effect of housework time on earnings

Whether she is a full-time homemaker or works both in the labor market and at home, a wife's home production affects her own earnings by lowering her stock of labor market related human capital. In addition, as reported below, time spent on home production also directly reduces earnings for women. At the same time, a wife's home production enhances her family's well being. Her contributions may also allow her spouse to be more successful in his education and career.

Estimates from wage equations that include time spent on housework provide quite consistent evidence of a negative relation between housework and own wages, particularly for women. This negative impact for women has been found using a variety of data sets: by Coverman (1983) using the 1977 QES; Hersch (1985) using data collected in 1980 from piece rate workers; Shelton and Juanita Firestone (1989) using data from the 1981 Time Use Survey; Hersch (1991a) using data collected from wage and salary workers in Oregon in 1986; and Hersch (1991b) and Hersch and Stratton (1997) using data from the PSID for the years 1979 - 87. The evidence for men generally does not indicate that housework influences wages; the exceptions are Coverman (1983) and Hersch and Stratton (1997), both of whom restrict their analyses to married men and women.

While the studies by Coverman (1983), Hersch (1985) and Firestone and Shelton (1989) estimated wage equations controlling only for standard human capital characteristics, the negative relation between housework and wages persists after further analysis. Hersch (1991a) finds such an effect for women after controlling for working

³ Respondents who complete time diaries report secondary as well as primary activities, but home

conditions as well as for human capital characteristics, number of children, and marital status. Estimates based on more sophisticated statistical techniques yield similar results.⁴

The inverse wage-housework effect appears to be real.

Why does housework affect wages, beyond the effect of housework on human capital accumulation? There are a number of possible explanations for this inverse relation, although empirical evidence on any causal mechanism is limited. Housework may reduce earnings by reducing the amount of energy and effort available for labor market work. Or, while not affecting labor market time directly on a regular basis, there may be intermittent disruptions to labor market work caused by the need to attend to unpredictable home-related chores such as emergency home repairs or childcare, which may reduce the labor market productivity of the household member primarily responsible for home production. A related possibility is that the spouse primarily responsible for home production might be less able to work late to complete projects under deadlines, which may likewise reduce labor market productivity.

IV. The effect of housework specialization on husband's earnings

A large number of empirical studies find a marriage premium for men of at least 10 percent.⁵ That is, controlling for human capital and other characteristics, married men earn more than single men with the same characteristics. A leading explanation for this

production time reported in Table 1 is calculated from time on primary activities.

⁴ Hersch (1991b) estimates a simultaneous wage-housework system, which recognizes that housework time is jointly determined with wage. Hersch and Stratton (1997) provide instrumental variables estimates which correct for the endogeneity of housework, and fixed effects estimates which correct for unobserved individual specific characteristics that may be correlated with housework. Note that fixed effects estimation mitigates the possibility that the wage-housework effect is spurious and caused by the negative correlation between productivity in the labor market and time on housework.

marriage premium is that specialization within the household results in genuine labor market productivity differences between married men who have the opportunity to specialize in labor market work and unmarried men who lack this option.

To examine this hypothesis, some researchers have included indicators of the wife's employment status as a proxy for specialization (Loh 1996, Jeffrey Gray 1997). The argument is that if marriage enhances labor market productivity by allowing men to specialize, then married men whose wives do not work in the labor market (or who work fewer hours) will have higher wages than either unmarried men or men with employed wives. The conclusions drawn from these studies are mixed. Loh finds that married men whose wives work in the labor market while married earn a *larger* premium, which suggests that productivity differences due to specialization do not explain the marital wage premium. Gray finds an inverse relation between the husband's wage and his wife's labor market hours, and attributes the observed decline in the marital wage premium over the 1980's to a decrease in the amount of specialization within marriage, despite an increase in the return to specialization.

The mixed evidence is not surprising based both on theoretical grounds and on evidence about time spent on home production. The effect of wife's employment status on her husband's housework time could go either way, as there are competing income and substitution effects. Men with employed wives may spend less time on housework than men whose wives are not employed because household income is greater (income effect), or they may spend more time because the value of their spouse's time may be greater (substitution effect). The net effect will depend on the relative magnitude of these

⁵ See Sanders Korenman and David Neumark (1991) and Eng Seng Loh (1996) for excellent

two components.⁶ In terms of empirical support, Scott South and Glenna Spitze (1994) report that although married women who are employed spend significantly less time on home production activities than married women who are not employed, their husbands' time allocation is virtually invariant.

Hersch and Stratton (forthcoming) examine whether specialization explains the male marriage premium by directly including time spent on home production in wage equations. This avoids the ambiguity associated with using wife's employment status as a proxy for specialization. We consider the effect on wages of total housework time performed by the man as well as housework time broken down into different types (e.g., cooking and cleaning which is done almost daily versus car repair and yard work which is done infrequently and can often be postponed). Further, we consider the direct effect of the wife's housework time on her husband's wage. The evidence suggests that the male marriage premium is *not* due to specialization within the household.

V. Housework, taxation and employee benefits

Although productive, housework is not taxed. This differential tax status of labor market work and home production may have an impact on work incentives. In effect, housework is subsidized relative to market work. In a static situation, in order for labor market participation to be optimal, the after-tax hourly wage must exceed the costs of day care, the extra cost of hiring services, restaurant or take-out meals. Edward McCaffery

surveys of the empirical literature.

⁶ Shoshana Grossbard-Shechtman (1999) extends the basic labor market framework to incorporate a spousal labor market. In her framework, for instance, an increase in wife's labor market income will increase her demand for her husband's spousal labor due to both an income and substitution effect. However, as in the basic labor market model, the net effect of a wife's employment on her husband's housework time cannot be predicted from theory.

(1997) provides examples in which the family income is actually lower when a mother works in the labor market than when she doesn't.⁷

Home production may be subsidized, but it does not provide some of the advantages that participation in the labor market confers. In addition to receiving wages, labor market workers have access to social security, disability, Medicare, and unemployment compensation benefits. Working conditions are subject to OSHA standards, and most jobs are covered under the NLRA regulations (e.g., time and one-half pay for overtime hours, the right to organize). In contrast, spouses who work only on home production do not receive social security benefits accruing from their own labor, but instead receive social security tied to their spouses' earnings.⁸

Individuals who work only in home production are not eligible for disability benefits. The closest concept to unemployment compensation is alimony (now usually called maintenance). In contrast to unemployment compensation in which the benefit is tied to wages at the former job, the amount of maintenance is determined by need. While OSHA regulates job safety, private homes are not regulated. Homes involve much work with household chemicals, potential fire and burn hazards from stoves and irons, sharp instruments such as kitchen knives, and activities such as standing on ladders changing

⁷ Note however that working at a temporarily lower net wage (even negative) may be perfectly optimal over the long run, as time in the labor market is an investment in the entire future stream of earnings. In this sense, employment in the labor market while paying childcare corresponds to the years of internship and residency undertaken by physicians or the years spent in graduate school.

⁸ Benefit payments are based on earnings and time in social security jobs. A career as a homemaker, or a mixed career, results in social security benefits from husbands' job, since wives get the greater of their own benefit from their covered work or half of their husband's benefit if married at the time social security benefits are paid; or if divorced, if married at least 10 years.

light bulbs. There are more unintentional disabling injuries in the home than in the workplace and in motor vehicle crashes combined (National Safety Council 1999.)

Many feminist scholars consider housework demeaning and generally harmful to women by relegating them to an inferior status, making them dependent on their spouses for financial support. Under this view, equality means equality in the labor market. To this end, scholars have recommended changes in tax law that eliminate the subsidy of housework relative to labor market work and thereby increase women's labor market activity. For instance, McCaffery recommends lowering married women's tax rates. Nancy Staudt (1996) proposes an alternative that preserves the notion that housework is valuable and should not be assumed to be inferior to labor market work. Her suggestion is to tax the imputed value of housework and allow home workers access to benefits tied to the labor market, including social security and disability benefits.

VI. The value of housework in divorce or death

Despite the exclusion of housework from measures of Gross Domestic Product (GDP), economists recognize that housework is productive work. As Katharine Silbaugh (1996) describes, this view is not shared by the U.S. legal system. Instead, U.S. laws regard housework largely as a marital obligation and an expression of affection. A contract stating that the wife will perform housework for payment is not enforceable. The underlying rationale employed by the courts is that marriage requires spouses to support and provide services to one another. One could not contract for payment for household services since one cannot be paid for something the individual is already legally obligated to perform. Silbaugh cites a number of cases in which courts refused to enforce agreements between spouses in which one spouse would pay the other for personal care

through provisions in the will. The courts' rationale in refusing to enforce such agreements is that such payments are degrading and commodify marriage. Instead, services within marriage should arise from love and affection between spouses.

How, then, is a wife who specializes in home production compensated in the event of divorce? There is no direct connection between the wife's home production contribution to her family and the financial aspects of divorce. For instance, the Uniform Marriage and Divorce Act (adopted by many states) tells courts to consider in the division of property "the contribution of a spouse as a homemaker or to the family unit." But this is only one of many factors. Other factors specifically noted are duration of the marriage, age, health, occupation, amounts and sources of income, vocational skills, employability, estate liabilities, needs, custodial provisions, opportunities for future acquisition of assets and income, and so on. Since there are no weights given to the array of factors, courts are left with a great degree of discretion over the weight given to the contribution of home production.

Maintenance is awarded for need, not in recognition of housework as a contribution to family wealth. Courts generally divide assets equally. But most couples have limited assets so the main asset is human capital investments. Wives who defer or limit their labor market investments during marriage are rarely given a supplement in recognition of their reduced employment prospects post-divorce.

The one area in which housework is valued is torts. In the event of wrongful death or injury to the spouse, one spouse may sue the injurer for the lost services formerly provided by the spouse. As Silbaugh (1996, p. 34) notes, these "loss of consortium damages may be owed to one spouse when the other is injured on the theory that the first

spouse had a legal right to services the injurer has taken away.” However, whether testimony on these economic damages is allowed varies by jurisdiction. When allowed, the plaintiff presents evidence on lost earnings as well as the value of lost home production. How to value such lost home production is described next.

VII. Valuing home production

In litigation, housework is usually valued at either the replacement cost or the opportunity cost.⁹ The replacement cost method values household production by assigning the market cost of replacing the home production. There are a number of issues that arise in valuing time using replacement cost. As noted in discussing measures of time use, much household activity involves joint production. Joint production makes it hard to separate out market equivalents.

For instance, a typical evening for a mother might include cooking dinner, cleaning the house, doing laundry, driving a child to a friend’s home, and supervising her children’s homework. Assume that we can identify and assign a time to each household activity. Now we need to assign a monetary value to this time. The replacement cost for these five activities can be evaluated at the wage rates of specialists (here, cooks, janitors, laundry workers, taxi drivers, and tutors or teachers), or it can be evaluated using the wage rate of a generalist, such as a paid housekeeper. Even the replacement cost for something as well-defined as cooking dinner can vary from a chef’s salary rate to a short-order cook. Further, the transactions costs involved with hiring substitutes for each of these activities can be high, requiring transportation, directing the activity, supervising,

monitoring, and usually involve a minimum charge regardless of the actual amount of time required. For instance, a tutor will charge a minimum rate whether the child needs 10 minutes of help or a full hour. Thus, the replacement cost method allows for a wide range of values of home production.

The opportunity cost method is based on the assumption that rational individuals will choose the best among the set of alternative options. If we observe that an individual chooses to do housework, then time spent on housework must be at least as valuable as time spent in the next-best alternative activities, in particular labor market work. The opportunity cost method therefore values the time spent on home production at the wage rate if an individual is employed in the labor market, and the predicted wage rate based on personal characteristics if the individual is not employed. Since those not in the labor market will acquire a different set of characteristics than those who are, this method will lead to a lower estimate of opportunity cost. In addition, even for those who are in the labor market, the direct effect of housework on earnings noted earlier will lead to a lower wage than for those doing less housework.¹⁰

In most cases, the replacement cost method will result in a higher value of a homemaker's time than the opportunity cost method. In part, it is easier to inflate the time spent on home production and the value of this production than it is to argue for a higher than average lost earnings for someone with specific skills and education. Therefore, in litigation, plaintiff attorneys will usually evaluate a homemaker's time at replacement

⁹ For further discussion of these issues see Hersch (1997).

¹⁰ Some issues that arise in valuing home production in litigation include whether to use before or after tax earnings, and whether to deduct work-related expenses. If deducting work-related expenses, further issues arise on what should be considered a work-related expense. Direct

costs, while the defense attorneys will prefer opportunity costs. In litigation proceedings, defense attorneys rarely provide damage estimates out of concern that this concedes liability or provides a floor on damage values, thus replacement costs are the most widely used measure in litigation.¹¹ However, the opportunity cost method will be used by plaintiff attorneys in cases such as wrongful death or injury to children in which there is no history of contributions to home production.

VIII. The Lorna Wendt and Gary Wendt divorce case

How to value the contributions of a wife was tested in a highly public and precedent setting recent divorce case. The plaintiff, Lorna Wendt, maintains that her specialization within the home enabled her husband, GE Capital Services (GECS) CEO Gary Wendt, to succeed in the labor market, thus entitling her to half of the \$52 - \$100 million estate. Lorna Wendt was awarded \$20 million in January 1998, instead of the \$8 million plus alimony offered by her husband.¹²

Most divorce settlements are private and this case provides a rare and instructive opportunity to look at the specifics of the valuation of housework as marital property. Although the amount of money involved is unusually large, the issues are common to all divorce cases. As background, Lorna Jorgenson and Gary Wendt met in high school and

commuting expenses are clearly work-related, but should day-care be considered work-related, and if so, should this be deducted for women only?

¹¹ Charles Fischer (1994) discusses valuing home production in litigation and presents results from a survey of forensic economists on the methods that they use to value housework in litigation. The survey reveals that forensic economists tend to use conservative estimates of the value of housework.

¹² This case received wide coverage in the press. It is currently under appeal so the ultimate financial outcome may differ.

married after graduation from college in 1965.¹³ Gary Wendt attended Harvard Business School, with tuition paid by his parents, and both Lorna Wendt and Gary Wendt had income from jobs during his schooling. Mrs. Wendt worked as a public school music teacher until shortly after the birth of the couple's first child. From that point on, she was never formally employed, but gave private music lessons through 1988. Over the course of their marriage, Gary Wendt rose to the position of CEO of GECS. By the time of their separation in December 1995, the family's assets exceeded \$50 million.

Throughout their 31-year marriage, Lorna Wendt raised the couple's two daughters, was a homemaker, and entertained business associates in her unpaid role as a corporate wife. The witnesses testified that she was an exemplary wife and mother, and supported her husband's rise through the ranks of GECS by accompanying her husband on vacation and other trips paid for by GE and hosting an annual Christmas party for business associates.

The financial decisions at divorce involve providing for custodial children, alimony, and division of property. State laws regarding the division of property vary. Connecticut is an equitable distribution state, which does not require equal division of assets. In equitable distribution states, courts have a great deal of discretion over the division of property. Among the many factors to be considered in allocating property are the nonmonetary contributions of the non-wage earning spouse. Courts usually divide assets equally in most long-term marriages. However, in cases of large assets (usually considered to be over \$10 million), the non-earning spouse has typically received less

¹³ Lorna J. Wendt v. Gary C. Wendt. D.N.FA 96 014 95 62 S. Superior Court of Connecticut, Judicial District of Stamford-Norwalk. Judge Kevin Tierney's decision, March 31, 1998. The

than half. Gary Wendt's settlement offer was \$8 million in property and annual alimony of \$250,000.

Lorna Wendt's position was that a less than 50 percent division was unfair to her and that "a woman's worth has value, a corporate wife has value." She maintained that her specialization within the home enabled her husband to succeed in the labor market thus entitling her to half of the \$52 - \$100 million estate. Professor Myra Strober, at the time a Stanford University professor of education, testified on behalf of Lorna Wendt. She proposed three methods of valuing Mrs. Wendt's nonmonetary contributions: market value replacement, opportunity cost, and human capital.

Using the replacement value approach, Strober broke down Lorna Wendt's home production into three categories: childcare, cooking, and house cleaning. Strober then assumed that each of these activities would be replaced by a worker who would work a separate eight hour day, every day of the year, at \$10.00 per hour. Evaluated at 24 hours per day, 365 days per year, for 31 years, she estimated the replacement value of Lorna Wendt's time in home production at \$2,715,600, unadjusted for price changes over time, discounting, or income tax ramifications. Although arguably inflated on a number of grounds, including the request for compensation for 31 years of childcare, this estimate was well below Gary Wendt's settlement offer.

Although Lorna Wendt's only training and employment had been as a public school music teacher, Strober indicated that she considered the opportunity cost method

following details of the case are reported in Judge Kevin Tierney's decision. The full text of this decision is available at <http://ct-divorce.com/wendt.htm>.

unreliable since Lorna Wendt could have been a highly paid opera singer.¹⁴ The opportunity cost method would have resulted in a lower value of Lorna Wendt's contributions than the replacement cost method, even if the earnings of an opera singer were included with the appropriate weight.

Strober testified that the "human capital" method is the most accurate. Under a human capital theory of marriage as described by Elisabeth Landes (1978), both spouses invest in family-specific human capital that is not transferable beyond the marriage. If the husband specializes in the labor market while the wife specializes in home production, divorcing spouses end marriages with very different opportunities. The family human capital premise underlying an equal division of assets at divorce is that if the spouses had invested equally during marriage, then each spouse is entitled to half the assets if divorced. Indeed, one can argue that the wife is entitled to more than half of the assets because of her reduced professional opportunities post-marriage.

Strober did not rely on this interpretation of Lorna Wendt's human capital contributions to the marriage. Instead Strober attempted to demonstrate that Gary Wendt would not have succeeded in his career without Lorna Wendt's contributions to his "two person career." Using the human capital approach, Strober claimed that it would be difficult to provide a dollar value for the nonmonetary contributions made by Lorna Wendt during the marriage. Strober argued that Gary Wendt's corporate career required two people to perform the functions necessary for his success, and that this two-person career was one of "equal effort and equal sacrifice." Her opinion is that the contributions

¹⁴ The opportunity cost method is widely used in litigation to value a life or lost earnings which involve far more speculation than the Wendt case, for instance cases involving the wrongful death of children.

should be valued equally regardless of whether the contributions were monetary or nonmonetary, and the division of all assets and earnings should likewise be equal.

In cross-examination, Strober was unable to provide support for the claim that Gary Wendt would not have been successful without Lorna Wendt's contributions. She also acknowledged that single and divorced men and single parents had similarly successful corporate careers. Numerous witnesses testified to the limited role Lorna Wendt played in her husband's career, and in her testimony Lorna Wendt demonstrated only casual knowledge of her husband's business activities.

The judge ultimately did not base his decision on any of these economic arguments in awarding Lorna Wendt \$20 million. His decision to award Lorna Wendt more than Gary Wendt's initial settlement offer was based on the greater financial needs of someone in her position.¹⁵ Of course, the more conventional methods proposed – replacement cost and opportunity cost – led to a division of assets well below Gary Wendt's offer. Only the human capital approach would argue for an equal division of property.

IX. Summary and concluding remarks

As this chapter discusses, whether employed in the labor market or not, married women on average spend considerably more time on home production than their

¹⁵ The judge also noted that the human capital approach involved problems of measurement and did not account for the role of numerous factors including hard work and talent. Further, the judge noted that marriage should not be commercialized and “the attempt to value investments in human capital pushes the institution of marriage from a relationship based on love and obligation toward one based on self interest.” Although the economic arguments were rejected in this case, the judge also provided examples, such as Claudia Sanders, the widow of the founder of Kentucky Fried Chicken, and Lorna Helmsley, in which the spouses' role in their family's financial success appeared equal to their husband's. Neither of these examples involved divorce, leaving one to wonder whether a stronger case for equal division could be made in a case where the evidence of the wife's contributions to her husband's success was more compelling than that of Lorna Wendt.

husbands do. This gender-based allocation of labor is consistent with economic theories of marriage and bargaining within the household. However, wives' contribution to family welfare comes at a personal cost: time spent on housework has a direct substantial negative impact on own wages. Further, if labor market human capital investments are curtailed by time spent in home production, wives' labor market opportunities may be reduced over their lifetimes. In contrast, there is little evidence that men's earnings are affected by their time in home production, nor is there evidence that the widely observed male marriage premium is due to specialization within the household.

Although largely ignored until recently, issues involving balancing a family with labor market activity have gained prominence. For example, that in 1991 the Wall Street Journal introduced Sue Shellenbarger's weekly column on "Work & Family," attests to a widespread interest in attaining a balance between personal life and career. Men have increased their time on home production. More research is needed on the consequences of these trends for both the labor market and the home.

Specifically, more information is needed on the causal mechanism underlying the inverse effect of housework on women's wages and the absence of such an effect for men. Identifying this mechanism is necessary to understand how changes in the labor market can allow all employees, not only women, to establish a better balance between personal life and labor market activity. Does this trend toward increased integration of market work and family life lead to greater productivity and job satisfaction? Given the negative impact of housework on women's earnings, will men's earnings similarly be affected if their home production activities continue to increase?

Although productive, housework is not taxed and is therefore subsidized relative to labor market work. In theory, this relative subsidy of housework may create a disincentive to labor force participation for women, although there is no empirical evidence on this issue. In contrast to work in the labor market, work in the home does not confer social security, disability, Medicare, or unemployment benefits. For these reasons some legal scholars have proposed reducing the income tax rate applicable to women or taxing housework directly and providing benefits similar to those provided in the labor market. Research is needed to provide evidence on the consequences of such policies. Other fruitful areas for research include how housework should be valued in the division of assets in divorce, particularly in situations in which one spouse's specialization in home production permitted greater labor market success for the spouse specializing in the labor market.

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Table 1: Summary of Housework Time Reported in Representative Studies

Author (year)	Data source, year, method	Sample	Activities included	Female mean	Male mean
Robinson & Godbey (1997)	Study of Time Use 1965 - diary	urban, household member in labor force	housework, childcare, shopping	All 40.2 Employed 26.1 Not empl. 51.5	All 11.5 Employed 11.1 Not empl. 15.2
Robinson & Godbey (1997)	Study of Time Use 1975 - diary	representative sample of US population	housework, childcare, shopping	All 32.9 Employed 23.7 Not empl. 42.0	All 12.2 Employed 10.7 Not empl. 16.1
Robinson & Godbey (1997)	Study of Time Use 1985 - diary	representative sample of US population	housework, childcare, shopping	All 30.9 Employed 25.6 Not empl. 39.0	All 15.7 Employed 14.5 Not empl. 20.3
Hill (1983)	Study of Time Use 1975 - diary	married subset of representative sample of US population	housework, childcare, shopping	All 34.85 Work FT 24.58 Work PT 33.43 Not empl. 40.90	All 14.25 Work FT 12.70 Work PT 17.60 Not empl. 20.01
Juster and Stafford (1991)	Study of Time Use 1981 - diary	representative sample of US population	housework	30.5	13.8
Coverman (1983)	Quality of Employment Survey 1977 - estimate	white, married, employed ≥ 20 hours/week	housework and childcare	47.12	25.09
Hersch and Stratton (1994)	Panel Study of Income Dynamics 1979 – 87 - estimate	white, married, both spouses employed/ both spouses employed full-time	housework	19.66 Full time: 17.32	7.36 Full time: 7.37
Presser (1994)	National Survey of Families and Households 1987-88 - estimate	married, both spouses employed	housework	33.4	17.6