

Inequality in Divorce Settlements: An Investigation of Property Settlements and Child Support Awards

JUDITH A. SELTZER AND IRWIN GARFINKEL

Institute for Research on Poverty, University of Wisconsin, Madison

Men and women have unequal access to economic resources, but couples vary in the degree to which husbands have power over wives. Inequality between husbands and wives affects marital interaction as well as decisions to dissolve a marriage. This paper investigates the degree to which the financial terms of divorce settlements reflect parents' relative power to achieve their goals and the competition between their own self-interest and altruistic concern for their children. We argue that consensus-oriented views of divorce negotiations that posit trade-offs between property and child support awards ignore inequality between bargainers and the high level of conflict that characterize most divorces. A description of the division of property and child support awards for a representative sample of recent divorces cases sets the stage for the examination of inequality in settlements. We find that although property settlements have little effect on postdivorce differences in custodial mothers' and noncustodial fathers' economic status, property settlements are worth between one- and two-thirds of child support awards. The high value of property settlements compared to support awards shows that trade-offs between property settlements and support are feasible. They are, however, uncommon. The majority of divorce settlements are the outcome of negotiations between unequal parties and result in one spouse acquiring both a favorable property settlement and a favorable child support award. Only among couples in which husbands and wives have similar incomes do the final outcomes reflect trade-offs between property settlements and child support awards. © 1990 Academic Press, Inc.

Social scientists observe the process of marital dissolution to obtain insights into spouses' and parent-child relationships. Financial settle-

This research was supported by Contract 144W857 between the Wisconsin Department of Health and Social Services and the Institute for Research on Poverty as well as the Center for Demography and Ecology, which receives core support from the Center for Population Research of the National Institute for Child Health and Human Development (HD-5876). Seltzer also received support from the University of Wisconsin Graduate School. Opinions expressed here are the authors' alone. We are grateful to L. Bumpass, R. Mare, S. McLanahan, I. Rothe, N. C. Schaeffer, and J. Sweet for comments on earlier versions of this paper. We also thank P. Brown, A. Lewis, T. Orbuch, Q. Sullivan, and the computing staff of the Center for Demography and Ecology for technical assistance and E. Uhr for editorial suggestions. Address correspondence and reprint requests to Seltzer, Department of Sociology, 1180 Observatory Drive, Madison, WI 53706.

ments at divorce provide a particularly valuable setting for the study of family relationships. This paper investigates inequality between husbands and wives using data from a representative sample of recent divorce cases. We address three questions. First, how do property settlements affect differences between fathers' and mothers' postdivorce economic well-being? Second, are property settlements potentially large enough to induce parents to consider a trade-off between property and a child support award? Third, which is more important in determining divorce outcomes: power inequalities or bargaining? The next sections describe the context that motivates interest in these questions, review the previous literature on divorce settlements, and discuss its limitations. We then describe the data. This is followed by a discussion of our methods of analysis and presentation of our results. We conclude by considering the implications of our findings.

DIVORCE SETTLEMENTS AS A PROBLEM FOR SOCIAL RESEARCH

The proportion of U.S. children in households headed by single mothers continues to grow. In 1985, nearly 21% of children lived in households with their single mothers, more than double the percentage who lived with single mothers in 1960 (U.S. Bureau of the Census, 1986b; Table A8). High separation and divorce rates combined with increasing rates of unmarried childbearing mean that half of the children in recent cohorts may spend time in a single-mother household (Castro Martin and Bumpass, 1989). Children who are separated from a parent suffer economic and social disadvantages (Garfinkel and McLanahan, 1986; McLanahan and Bumpass, 1988). Households maintained by single mothers—the majority of single parents—suffer from poverty and economic insecurity (Garfinkel and McLanahan, 1986).

Because most children who reside with a single mother have a living father, they have a potential claim to child support. Yet only 61% of mothers with children eligible for support have a child support award; of those with awards, less than half receive the full amount due (U.S. Bureau of the Census, 1987). Inadequate child support payments contribute to the hardships of a childhood spent with a single mother by lowering income, which is a key factor affecting children's school behavior and educational attainment (Hetherington, Camara, and Featherman, 1983; McLanahan, 1985). In addition to their effects on income, child support payments affect children's school behavior and reduce delinquency (Furstenberg, Morgan, and Allison, 1987). The way that parents divide their property at divorce may also affect children's welfare, but previous research on economic aspects of divorce focuses primarily on child support awards rather than the division of property (Cassettey, 1978; Beller and Graham, 1988). Except for studies of the effects of legal reforms on property settlements (Weitzman, 1985; Peters,

1986), the role of the division of property in divorce settlements has been neglected.

Mnookin and Kornhauser (1979), in their classic article, characterize divorce settlements as the outcome of parents' private negotiations about child support awards and the division of property. "Bargaining in the shadow of the law," parents trade off child support and property to maximize their own preferences, and courts ratify parents' informal agreements. This suggests that low or nonexistent child support awards may be offset by generous property settlements. Some evidence supports this view of the divorce process as an economically rational exchange of property and support. Divorcing parents describe their maintenance, child support, and property settlements in the same breath (Weitzman, 1985). In addition, Landes (1978) finds a negative effect on alimony of the amount of property that women receive. A few mothers even state explicitly that they got more property because they gave up a support award (U.S. Bureau of the Census, 1986a).

Yet there are reasons to doubt the Mnookin-Kornhauser picture of the divorce process. Weitzman's (1985) California data suggest that the division of property is unimportant compared to wives' potential loss of husbands' income. The value of tangible assets in divorce settlements is less than the amount that an average couple earns in the year before divorce. National data and findings from studies in other states also show that few custodial mothers receive valuable property at divorce (U.S. Bureau of the Census, 1981; Wishik, 1986; McLindon, 1987). Thus property settlements may neither offset the dramatic difference between women's and men's economic welfare after divorce nor provide much opportunity for parents to trade off property and support awards.

Even if property values are high relative to income, Mnookin and Kornhauser's view of informal divorce negotiations may be flawed by its emphasis on consensus. Their portrayal of divorce as an informal process downplays the acrimony that characterizes the resolution of uncontested divorces (Kressel, 1985; Erlanger, Chambliss, and Melli, 1987). Furthermore, they assume that a settlement accepted by both spouses reflects each person's preferences equally. This is inconsistent with research on marital conflict and decision making, which shows that one spouse, usually the husband, has more control in resolving disagreements (Blood and Wolfe, 1960; Gillespie, 1971; Scanzoni, 1982). Mnookin and Kornhauser ignore the implications of husbands' greater authority, access to economic resources, and information about the value of assets (e.g., pensions, credit) that they can use to their advantage in a divorce settlement.

Contemporary marriage patterns suggest wide variation in the degree to which husbands have power over wives. Some spouses may be relatively equal because of women's increasing economic independence

(Moore and Sawhill, 1976) and the adoption of egalitarian sex-role attitudes (Bianchi and Spain, 1986). Among couples who adopt a traditional division of labor in which husbands provide market work and wives provide housework, however, greater male dominance is found. Couple differences in spouses' relative power may affect the distribution of property and child support in divorce settlements. The greater the inequality between spouses, the more likely it is that the more powerful parent will receive a disproportionate share of property *and* an advantageous support award (e.g., when noncustodial fathers are relatively more powerful, the child support award will be lower).

Divorce settlements also reflect parents' concern for their children's economic welfare. Although Mnookin and Kornhauser propose that parents seek settlements to achieve both self-interested and altruistic goals, their view does not evaluate the relative importance of these goals to individual spouses. Parents share deep-rooted concerns about the effects of divorce on their children (e.g., Goode, 1956; Arendell, 1986), but differ in their willingness to place children's interests ahead of their own. The custodial parent, usually the mother, may be more committed to children's goals than the father, both because her economic interests coincide with the children's economic interests and because she identifies emotionally and psychologically with the children.¹ Noncustodial parents' economic interests compete with those of their children. However, when noncustodial parents are strongly committed to maintaining their children's economic welfare, they may act against their own economic interests and agree to larger property settlements and support awards for the custodial parent and children. Thus, commitment to children as well as relative power inequality may describe divorce settlements more accurately than bargaining to a mutually acceptable property settlement and support award.

PROPERTY SETTLEMENTS AND MEN'S AND WOMEN'S POSTDIVORCE ECONOMIC WELFARE

Divorce is costly for both men and women, but there is no doubt that the economic consequences for women are more severe. Approximately 40% of women who remain single in the first year after divorce lose more than half of their family income. Fewer than 17% of men experience this large a drop in income (Duncan and Hoffman, 1985a). Children share women's economic fate; 59% of children living with single mothers live

¹ Allocation of custody rights also plays an important role in divorce negotiations. Parents may trade rights to money (property and child support) for custody. In this paper we explore financial issues, focusing primarily on cases in which mothers get custody. In other research we are examining the association between decisions about custody and financial settlements.

in poverty compared to about 10% of children in two-parent households (U.S. Bureau of the Census, 1988: Table 24). Men, on the other hand, experience a rapid economic recovery from divorce, in part because they no longer share as much of their incomes with children (Duncan and Hoffman, 1985a).

Previous research suggests that property settlements are unlikely to reduce the gap between women's and men's postdivorce economic well-being. Couples who divorce have lower incomes prior to separation than stably married couples (Duncan and Hoffman, 1985a), and this income differential is reflected in the limited value of property holdings at divorce. Property settlements are more likely to include cars or household furnishings than more valuable assets such as houses, businesses, or pensions (Weitzman, 1985), so that the net value of assets owned at divorce is quite low (Weitzman, 1985; McLindon, 1987). Even if women received all of the property, the low total value of assets might not be enough to offset women's postdivorce economic disadvantage. Of course women rarely receive all of the property at divorce, even when they have custody of children (Weitzman, 1985; Wishik, 1986; McLindon, 1987).

Property settlements, however, may play an important role in divorce negotiations if the value of property is high *relative to the amount of support awarded*. Although Weitzman's (1985) evidence suggests that the total value of the property divided is low compared to couples' predivorce income, the value of maintenance and child support awarded to custodial mothers is also low. Support awards may be a more appropriate standard than income for evaluating the significance of property in divorce negotiations because support awards are the other component of financial settlements. Despite the direct relevance of the comparison between the amount of property each person receives and support awards for theories of divorce bargaining, no studies investigate systematically the association between property and support.

THE DIVORCE PROCESS: COMPETING PERSPECTIVES AND THEIR LIMITATIONS

Most divorce settlements are determined by informal negotiations outside of court (Mnookin and Kornhauser, 1979; Melli, 1983; Erlanger *et al.*, 1987). Couples typically treat litigation as a last resort because of its high emotional and financial costs (Spanier and Casto, 1979; Albrecht, 1980; Spanier and Thompson, 1984; Arendell, 1986). Some types of informal negotiation, such as mediation, may decrease postdivorce conflict and improve compliance with divorce settlements (e.g., Pearson and Thoennes, 1984). Yet emphasis on private agreements, emotional adjustment, and improved compliance are inconsistent with inequality in

bargaining resources, parents' intense conflict, and competition between self-interest and concern for children.

Consensus: Trade-Offs between Property and Support

Consensus-oriented views of divorce settlements, best exemplified by Mnookin and Kornhauser (1979), treat settlements as the outcome of each parent's preferences for property (lump-sum payments) and support awards (periodic payments). As in economic theories of family life (e.g., Becker, 1981), consensus models assume that once parents decide to divorce, they negotiate to maximize the joint utility of their settlement. Parents consider property and support to be substitutable goods, subject to discounts for inflation, availability of liquid assets, and expected compliance with support awards. For example, in a sociolegal environment in which support awards are rarely or haphazardly enforced, it is in the custodial parent's economic interest to request a larger share of property as part of the divorce settlement rather than a larger amount of child support. Divorce lawyers frequently advise their clients that a large property settlement is worth more than a hard-to-enforce maintenance or child support award (Weitzman, 1981, 1985). Because the settlement is a compromise division of property and child support responsibilities, the net association between the amount of property and support awarded to custodial mothers will be negative. Although Mnookin and Kornhauser acknowledge that husbands and wives may differ in their bargaining chips (resources), they do not consider the problems of conflicting preferences and spouses' differential ability to achieve preferences.

Conflict and Inequality

Divorce occurs as a result of conflict between spouses. The way that conflicts are resolved within marriage depends on differences between husbands' and wives' power (Straus, Gelles, and Steinmetz, 1980; Scanzoni, 1982); thus power differences may play an integral role in resolving divorce disputes. In fact, competing preferences and relative inequality between husbands and wives may be more important than trade-offs in determining the relationship between property settlements and child support awards.

Inevitably, spouses differ in power when one is more eager to leave the marriage than the other. The spouse more anxious to leave has a bargaining disadvantage and may have to give up more joint assets as the "price" of a divorce (e.g., Erlanger *et al.*, 1987). However, disparity between the postdivorce living standards of women and children, on the one hand, and men, on the other, suggests that, on average, men have a systematic bargaining advantage because they control more economic resources. Husbands usually know more about the value of their pensions and insurance policies. This gives them an advantage because they can

understate the value of the joint assets that they control (Wishik, 1986). Husbands' financial status at divorce is generally more secure than wives', enabling husbands to freeze joint assets (e.g., bank accounts) or withhold mortgage payments to coerce wives to accept a less advantageous settlement (Foster and Freed, 1984; Weitzman, 1985; Erlanger *et al.*, 1987). Differences between men's and women's knowledge and earning capacity suggest that, in general, private negotiations do not optimize divorce settlements for *both* spouses, just for husbands.

Couples vary, however, in the degree of husband-wife inequality. Married women's economic dependence on husbands has declined dramatically during this century (Sørensen and McLanahan, 1987). As women earn more of their families' incomes, their monetary contributions to the purchase of joint property increase. Monetary contributions are more likely to be recognized in property settlements than unpaid contributions to family property, such as housework or child care. For instance, studies show that, controlling for other factors, wives who are employed and/or who have separate bank accounts have more control in decisions about how to spend money than wives who do not have their "own" money (Blumstein and Schwartz, 1983; England and Farkas, 1986). Where the balance of power is relatively more favorable for wives, wives may use their stronger bargaining position to acquire larger property settlements and support awards. Conversely, when the balance of power is relatively more favorable for husbands, wives will receive less of both property and support.

Although courts rarely alter parents' property and support agreements (Melli, 1983), expectations about judges' preferences may enhance or diminish parents' relative bargaining positions (Mnookin and Kornhauser, 1979; Weitzman, 1985; Erlanger *et al.*, 1987). Other things equal, couples who anticipate that their case will be heard by a judge who favors custodial mothers and children are likely to arrange a settlement that gives more property and support to the mother than couples who anticipate a judge who favors noncustodial fathers. Thus, judges' potential ability to alter divorce settlements influences parents' relative inequality, further suggesting a positive association between the amount of property and child support that custodial parents receive (e.g., if the judge is sympathetic to mothers and their children, both property settlements and support awards will be larger).

Property and Commitment to Children

Parents' concern for their children also affects the allocation of property and child support. Concerns include the negative effects of divorce on children's emotional welfare, the potential loss of contact between the noncustodial parent and child, social upheaval if children must move to a new residence, and decline in children's standard of living (Wall-

erstein and Kelly, 1980; Arendell, 1986; Harrison and Tucker, 1986). Parents may attempt to protect children from conflict by negotiating a quick divorce settlement outside of court. They may also serve children's interests by ensuring that the custodial parent receives the house (when there is one) or sufficient child support to enable the children to remain in their current residence. Under the most common custody arrangements, where fathers are noncustodial and mothers are custodial parents, these strategies affect husbands and wives differently. Private negotiations and a quick settlement may favor the father, while concern for children's economic welfare may favor the mother. When mothers are more committed to children's welfare than fathers are, fathers may acquire another advantage in financial negotiations. Mothers may comply with fathers' demands to give up property and claims to child support as a way of facilitating friendlier postdivorce relationships between the noncustodial father and children (Wallerstein and Kelly, 1980; Spanier and Thompson, 1984; Weitzman, 1985; Arendell, 1986). The divorce process, therefore, is influenced by parents' differing commitments to childrearing responsibilities and conflict between achieving various childrearing goals (protection from conflict and fulfilling children's material needs).

Methodological Limitations

Despite the theoretical contributions of previous research, sample and measurement problems hamper the interpretation of findings about divorce. Legal studies are limited by the dearth of empirical work that tests assertions about divorce negotiations. Descriptions are impressionistic (Mnookin and Kornhauser, 1979) or rely on small samples (Wishik, 1986; McLindon, 1987) and in-depth interviews (Spanier and Thompson, 1984; Erlanger *et al.*, 1987). Reliance on self-reports about the financial value of divorce settlements and retrospective reporting biases prevent studies from systematically evaluating the role of property settlements and child support awards in divorce settlements. Finally, research is limited by the absence of key variables. The most commonly used data source, the March–April Current Population Surveys (CPS), lacks information about the value of property awarded to *each* parent.² This prevents an assessment of property division. The CPS also lacks information about the amount of child support and maintenance awarded at divorce; the survey includes the amount owed during the previous year (U.S. Bureau of the Census, 1987). These data limitations have prevented a consideration of the total value of divorce settlements, including both property and child support.

² Since 1979, the CPS has not included questions about even the dollar value of property awarded to mothers (U.S. Bureau of the Census, 1983).

DATA

We use data from a large, representative sample of recent divorces to examine the association between property settlements and child support awards. Unlike the CPS, our data include information about the total value of property in the settlement, the amount awarded to each spouse, and the value of support awarded at the time of divorce. Because the information comes from official records, the data are not subject to retrospective reporting biases as in the CPS and other smaller surveys of divorcing parents.

Sample and Measurement

We use court records of separation and divorce cases that were eligible for child support sampled from 22 Wisconsin counties with court dates between July 1980 and October 1984. Child support cases are those that include minor children and two living parents who live apart. The sample includes families with and without child support awards. Our analysis describes property settlements among approximately 1800 divorcing families of all custody types and investigates the association between property settlements and support awards for the subsample of approximately 1300 cases in which the family owned some property and sole legal custody was awarded to the mother. We treat the data as a cross-sectional sample of divorce cases sampled over the 4.5-year period. The population estimates reported below use sample weights that correct for variation in the probability of sample selection based on the year that the family entered the Wisconsin court system and the number of child support eligible divorce cases in each county (Manning, Seltzer, and Schaeffer, 1987; Garfinkel *et al.*, 1988).

Case records include information on parents' income, property ownership, division of assets, and support awards obtained from the financial statements that parents file when they petitioned for divorce and from data on settlements in temporary orders (initial separation) and final orders (formal divorce decrees). The analysis uses data on property settlements and support awards specified in final orders whenever possible; for cases observed before parents had obtained final orders, we substitute information from temporary orders.³

The monetary value of parents' assets is defined as the net value of assets once mortgages, liens, and other debts have been taken into ac-

³ Temporary and final order data were coded from a file of case records in which court actions for each case were recorded chronologically. By searching each of the first four court actions we identified final or temporary orders for slightly over 95% of the divorce cases. Fifteen percent of the cases only had information from temporary orders. Preliminary analyses show no differences between cases with information from temporary and final orders. This is consistent with the Melli *et al.* (1985) finding that awards in final orders are usually the same as those in temporary orders.

count. Couples or individuals who reported negative net worth, either because they owed money to each other or to outside parties, are treated as though they have no assets (i.e., coded 0 on the value of property).⁴ The data collection procedures do not enable us to determine the extent to which this assumption of zero net worth overestimates divorced parents' economic well-being. Overestimates of property values may be offset by underestimates attributable to missing data on property values when couples did not know the value because the property was still for sale at the time of divorce.

Wisconsin vs National Sample Characteristics

A comparison of the Wisconsin court record data with national estimates from the CPS shows that divorce settlements in Wisconsin are very similar to settlements in the United States as a whole. Table 1 reports selected characteristics for the Wisconsin sample and recent divorce cases in the 1979 March–April CPS public use file. We use the 1979 Child Support Supplement because it was the last year that the survey included questions about the dollar value of property awarded to mothers (U.S. Bureau of the Census, 1983). The CPS estimates in Table 1 describe the subset of divorces that occurred in the past 5 years to mothers who live with support-eligible children. The first row shows that the percentage of custodial mothers who receive at least some property in the divorce settlement is similar for Wisconsin and the nation (66 compared to 60%, respectively). In addition, the Wisconsin and CPS data estimate approximately the same percentage of cases with alimony and/or support awards at the time of separation, 85 and 84%, respectively. Finally, the data sources show similar distributions for the value of property that mothers received as part of their divorce settlement, with an index of dissimilarity of 8.5. The comparison suggests that it is appropriate to use the Wisconsin court record data to explore the relationship between property settlements and support awards and that inferences from our analyses may apply to divorce settlements nationally.

METHODS AND RESULTS

The analysis is in three parts. The first considers the importance of property for postdivorce economic welfare. We describe the composition and value of property settlements and evaluate the effects of property settlements on mothers' and fathers' postdivorce incomes. The second

⁴ We constructed the variable indicating the total value of all assets from a series of items reporting the value of individual assets. To include as many cases as possible in the analysis, we used the following procedure. Consider a couple with two cars. If they owed money on one car, but had no outstanding loans on the other, the value of the first car was coded as 0 while the value of the second car was treated as a positive number.

TABLE 1
Selected Characteristics for Recent Divorce Cases in Wisconsin Court Record Sample
and U.S. Current Population Survey, Weighted Percentages

| | Wisconsin ^a | CPS ^b |
|--------------------------------------------------|------------------------|------------------|
| Mothers who received any property | 66.4% (1668) | 60.3% (1049) |
| Mothers who had a support award at divorce | 85.3 (2237) | 83.8 (1049) |
| Value of property awarded to mother ^c | | |
| <\$5000 | 49.7 | 51.1 |
| \$5000-\$9999 | 11.3 | 13.3 |
| \$10,000-\$19,999 | 13.8 | 17.7 |
| \$20,000-\$29,999 | 11.0 | 6.1 |
| \$30,000-\$39,999 | 3.5 | 4.2 |
| \$40,000-\$49,999 | 2.4 | 2.9 |
| 50,000-\$74,999 | 4.5 | 2.4 |
| \$75,000+ | 3.8 | 2.3 |
| Total | 100.0 (1151) | 100.0 (566) |

Note. Unweighted sample sizes in parentheses.

^a Restricted to cases in which mothers have legal custody.

^b Restricted to cases in which mothers have physical custody.

^c For mothers who received any property; excludes mothers who did not receive a settlement.

part compares the value of property settlements to child support awards to assess the potential for trade-offs between property and support. In the third part we investigate whether trade-offs or inequalities of power and commitment to children explain the relationship between property settlements and support awards. We develop a multivariate model and evaluate the relative merits of the trade-off and inequality hypotheses by comparing divorce settlements in which husbands and wives have relatively equal access to economic resources with those in which husbands have more resources.

Effects of Property on Men's and Women's Postdivorce Economic Welfare

Table 2 shows that most families own some property at the time of divorce. The top panel shows that 84% of all divorce cases have at least some property.⁵ Despite the high percentage of divorce cases involving property settlements, the value of most people's assets is relatively low. The median dollar value of all property is \$7800. Most people own only

⁵ Bivariate tables not included here show relatively little variation in whether or not couples own at least some property across various social, demographic, and economic characteristics.

TABLE 2

Property Ownership, Median Values of Property, and the Share of Property Awarded to Mothers: Divorce Cases, Wisconsin 1980-1984

| Type of property | Percentage of cases including the item | Median value ^a | Mean percentage of total property value awarded to mothers |
|---------------------------|----------------------------------------|---------------------------|------------------------------------------------------------|
| All custody types | | | |
| Any property | 84 | \$ 7,800 | 54 |
| House | 52 | 22,000 | |
| First car | 80 | 1,000 | |
| Other assets ^b | 18 | 15,500 | |
| Mother custody | | | |
| Any property | 82 | \$ 6,000 | 57 |
| House | 48 | 21,000 | |
| First car | 79 | 1,000 | |
| Other assets ^b | 16 | 15,500 | |

Note. Estimates are calculated using weighted data. Unweighted sample size for calculating total property value for all custody types = 1807. For mother custody cases, the unweighted sample size for total property value = 1326. Sample sizes vary due to missing data.

^a Median value estimates restricted to the subset of cases that included the property item in their settlement. Values rounded to the nearest hundred.

^b These assets are restricted to property valued at more than \$5000.

a car. The family house is clearly the couple's most valuable asset, with a median net value of approximately \$22,000 for those who own one. Less than one-fifth of divorce cases involving children include more than \$5000 worth of property other than a house or cars. On average, families divide their property relatively equally between the two parents. Mothers receive 54% of total assets, regardless of custody arrangements. Finally, a comparison of the top and bottom panels of Table 2 shows that compared to families with other custody arrangements, those in which mothers have legal custody of the couples' children have two slight economic disadvantages: They are somewhat less likely to own property and the property that they own is worth somewhat less than for all families.

Distributional data on property values also show the low value of assets in most divorce settlements. Figure 1 presents the distribution of the value of property available for division when mothers have custody and the settlements involve at least some property. Nearly 60% of all mother custody families own property valued at less than \$10,000 at the time of divorce. In about 80% of the cases, the property is worth less than \$30,000. Only 5% of mother custody cases own property worth more than \$100,000. The unequal distribution of property suggests that few parents have an opportunity to acquire much wealth as part of their divorce settlement.

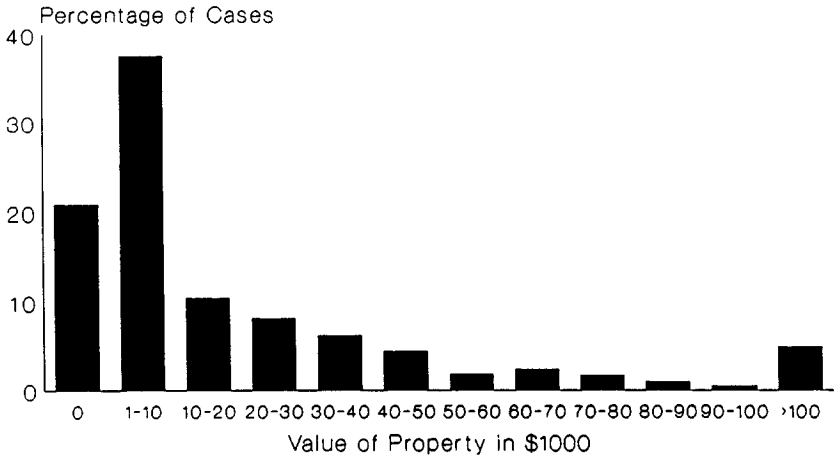


FIG. 1. Distribution of the total value of property involved in negotiations for mother custody cases.

Despite the low value of property divided at divorce, small property settlements may be important for parents' economic welfare if the settlement is large relative to their other economic resources. To consider the effects of property settlements on postdivorce economic welfare, we must compare property (a stock) to income (a flow). We do this by estimating the income that spouses would receive if they invested their share of joint property and comparing this investment income or flow of money to other postdivorce income. The income return to the invested assets, relative to couples' postdivorce annual income, indicates the degree to which property settlements affect the economic welfare of men and women. We assume that assets acquired in property settlements yield an investment income of a simple 10% per year. Table 2 shows that the median value of property awarded in mother custody cases is \$6000. Of this, 57% (\$3420) is awarded to mothers, while fathers receive the remaining 43% (\$2580). Investment income for our hypothetical example is \$342 for custodial mothers and \$258 for noncustodial fathers.

To evaluate the relative importance of this investment income for mothers and fathers, we compare it to estimates of women's and men's mean income for the first year after separation or divorce. Although our data do not include information about incomes the year after divorce, we can estimate postdivorce incomes by combining our data on family income at the final divorce hearing (i.e., approximate predivorce family income) with Duncan and Hoffman's (1985b: Table 14A.3) estimates of percentage declines in income after divorce. We use Duncan and Hoffman's estimates for whites with above median predivorce family incomes so that their estimates will be appropriate for our predominantly white,

court-based sample of property owners. We treat parents' combined income at the final (or temporary) divorce order as predivorce family income (mean = \$29,291). Duncan and Hoffman estimate that for women with higher socioeconomic status who do not remarry in the year after divorce, family incomes decline to 61% of their predivorce level. For men, the decline is to 82% of predivorce income. Using this information, we estimate that custodial mothers in our sample who do not remarry in the year after divorce have an average income of \$17,868 for the first year after divorce while fathers have an average income of \$24,019.⁶

The comparison of parents' investment income from property settlements to average postdivorce incomes shows that mothers' share of property interest provides an additional 1.9% of income (342/17,868) while fathers' share provides 1.1% of additional income (258/24,019). Although the proportionate increase in women's economic well-being is nearly twice as high as the improvement in men's well-being, neither women nor men benefit appreciably from property settlements. Even if mothers received all \$6000 worth of joint property, its investment value would only increase her postdivorce income by 3.4% (600/17,868). The small effects of property settlements on parents' postdivorce incomes indicate that taking property settlements into account does not diminish divorced mothers' economic disadvantage.

Potential for Trade-Offs between Property and Support

We compare the investment value of property settlements to the size of annual child support awards to determine whether or not a trade-off between property and support is feasible for those who own property. If the investment value of property is trivial relative to the size of child support awards, parents are unlikely to negotiate an exchange between property and support. Table 3 reports the ratio of the hypothetical investment income from the property that custodial mothers receive to the amount of noncustodial fathers' child support obligations.⁷

The data show that property settlements do offer the potential for a trade-off between property and support. The mean investment value of mothers' property settlements equals nearly 40% of the value of fathers' support obligations among families with both a property settlement and a support award.⁸ This ratio, moreover, underestimates the relative im-

⁶ Our estimates of postdivorce income are quite similar to those that Duncan and Hoffman (1985b: Table 14.A.3) report for their comparable subsample: \$17,719 for women and \$26,533 for men.

⁷ We define child support awards as the sum of alimony (maintenance), child, and family support awards. For cases with child support eligible children these awards are substantively equivalent.

⁸ Note that the ratio reported in column 4 of the table is not the ratio of the means in columns 2 and 3. Column 3 includes cases without support awards (i.e., 0 values). These cases are not included in the computations reported in column 4 because division by 0 is not defined.

TABLE 3

Comparison of Average Property Settlement Values to Average Child Support Awards:
Divorce Cases with Mother as Sole Legal Custodian, Wisconsin 1980-1984

| Mother's and father's combined annual income at divorce (1) | 10% of value of property received by mother (2) | Annual child support award (3) | Ratio of property investment value to support ^a (4) | Unweighted number of cases (5) |
|----------------------------------------------------------------|----------------------------------------------------|-----------------------------------|-------------------------------------------------------------------|-----------------------------------|
| Less than \$15,000 | \$ 558 | \$1530 | .29 | 126 |
| \$15,000-\$24,999 | \$ 486 | \$2906 | .30 | 285 |
| \$25,000-\$34,999 | \$1095 | \$4059 | .31 | 298 |
| \$35,000-\$44,999 | \$1595 | \$4307 | .40 | 145 |
| \$45,000 or more | \$3840 | \$7068 | .66 | 104 |
| All | \$1299 | \$3869 | .37 | 958 |

Note. Estimates calculated using weighted data.

^a Excludes cases without support awards.

portance of property compared to support because it assumes that the amount that noncustodial fathers are obligated to pay in child support is the same as the amount that they, in fact, pay. The ratio of property to actual child support payments is likely to be much higher given the low compliance with child support awards (U.S. Bureau of the Census, 1987: Table A).

The relative size of invested property values and support awards varies among families of different income levels at divorce. Among those with incomes less than \$15,000, invested property values equal approximately one-third of support obligations, while among those in the highest income category, property settlements are two-thirds of the annual support obligation. Other things equal, families with higher incomes at divorce may have more property to divide, thus increasing the ratio of property to support. Families who have higher predivorce incomes are also more likely to include two earners. When mothers have their own earnings, they may use this resource to demand a divorce settlement with a larger property component. All else equal, mothers may prefer a lump-sum property settlement because it is awarded immediately and it is given directly to them, whereas child support awards may not be forthcoming and, in a sense, are more for the children's use than the mothers'. At the same time, mothers who earn more are also better able to support their children without child support (i.e., have less "need" for fathers' support contributions) than mothers with lower earnings (Cassetty, 1978; Beller and Graham, 1986). Our results suggest that mothers from lower income families are disadvantaged because they are forced to rely more on child support, a precarious arrangement, than on property for their share of the divorce settlement.

The Relative Importance of Trade-Offs and Power Inequalities

Two dimensions govern the outcome of property and child support negotiations: parents' relative power to achieve their goals and whether parents seek their own self-interest or are altruistically motivated by concern for their children. The interaction of these dimensions suggests predictions about divorce outcomes. Predictions about the effects of relative inequality on settlements assume that parents negotiate in their own self-interest. To the extent that divorce settlements are compromises between relatively equal, self-interested parents who strike a bargain on property and child support, the net relationship between these two outcomes should be negative—that is, a gain in one would be balanced by a loss in the other. If, on the other hand, variation in mothers' and fathers' relative power dominates the outcome of divorce negotiations, the net relationship between mothers' property and support would be positive. On average, custodial mothers with more power relative to their husbands will obtain both larger property settlements and child support awards. Conversely, for couples in which custodial mothers have less relative power, mothers will receive smaller property settlements and child support awards.⁹ Predictions based on altruistic motives also suggest a positive association between property and child support. Non-custodial fathers may pursue altruistic goals as a way to express their commitment to children. All else equal, the more committed noncustodial fathers are, the larger the awards of both property and child support give to custodial mothers. Fathers who are less committed (or more self-interested) express this by giving custodial mothers smaller property and support awards.¹⁰

Thus by examining the association between property settlements and child support awards, we can ascertain the relative importance of trade-offs, which seek to accommodate parents' self-interested preferences for property and child support, compared to inequalities of power and commitment to children. If, for given levels of earnings and assets, the association is negative, we would conclude that trade-offs are the critical phenomenon. In contrast, if the association is positive, we would conclude that either inequalities in power or commitment to children are more important.

The bivariate relationship between property settlements and support

⁹ To the extent that judges' preferences enhance inequality between spouses, this also suggests a positive association between the amount of property and child support awarded to custodial mothers. Our analysis does not distinguish between power exercised by parents and power exercised by courts.

¹⁰ As noted above, custodial mothers' self-interest and altruistic concerns for children's material welfare coincide in negotiations about property settlements and child support awards.

awards provides initial support for the power inequality and commitment hypotheses. The correlation¹¹ between the dollar values of property and child support awarded to custodial mothers is .478, suggesting, by the power interpretation, that within couples the more powerful parent gets more favorable property and support awards. However, the high positive association between the dollar values of property and support awarded to custodial mothers may also reflect parents' predivorce wealth. Wealthier parents can afford larger property settlements and child support awards. Thus, we investigate the association between property and child support awards controlling for each parent's predivorce income, the total value of assets in the divorce settlement, and other family characteristics that affect divorce settlements. We evaluate the relationship between property settlements and support awards for the entire sample and for subsamples that differ in the degree of husband-wife power inequality. We expect trade-offs, if they occur at all, to characterize divorce settlements in cases where spouses are relatively equal. The analysis distinguishes two couple types: "egalitarian" couples in which the wife's income is at least 70% of the husband's income and "husband-dominated" couples in which the wife's income at divorce is less than 70% of husband's income.

Multivariate model of property and child support awards. We estimate two-equation models in which one equation predicts the dollar value of property awarded to custodial mothers and one predicts the amount of support awarded per month.¹² The equations are estimated simultaneously with correlated disturbances. Both property and support have a large number of cases with 0 values; therefore, we use a bivariate tobit model to estimate the joint association between property and support and take account of the censoring of their distributions (Maddala, 1983).¹³ We interpret the residual association as evidence of either a trade-off between property and support (indicated by a negative correlation) or inequalities of power or commitment to children (indicated by a positive correlation). We estimate a pooled model for the entire sample to describe divorce settlements for all parents. We then estimate separate models for couples with high and low levels of inequality to determine whether

¹¹ The correlation takes into account censoring of both variables at 0. We estimate the correlation between dollars of property and dollars of support in a bivariate tobit model without independent variables. These models are explained below.

¹² We treat both property and support as the dollar amounts awarded to custodial mothers to enable a more straightforward comparison between property and support awards than alternate, ratio specifications, such as the proportion of total property awarded to custodial mothers and the ratio of the child support award to the noncustodial father's income. Ratio variables make it difficult to assess the net effects of total wealth and parents' incomes on divorce settlements.

¹³ We estimate this model by maximum likelihood using HOTZTRAN (Avery and Hotz, 1983).

or not trade-offs between property and support more accurately characterize settlements between relative equals than settlements between unequals.

Independent variables. Table 4 summarizes the variables included in our models. Marital duration (DURATION) and the number of children eligible for child support (KIDS) are indirect indicators of the couple's investment in their marriage. The longer the parents have been married, the more property they have accumulated, and ceteris paribus, the greater each spouse's contribution (through paid or unpaid work) to accumulated assets. Number of children indicates the need for support. We include the quadratic term (KIDSQ) to take into account economies of scale associated with larger family sizes (Espenshade, 1984).

We measure individual spouses' economic resources as their gross monthly income at the time of their final or temporary order (FINCOME for fathers; MINCOME for mothers). Parents' incomes indicate their control of bargaining resources. All else equal, the higher the mother's income, the greater her power to achieve property and support settlements in her favor. Father's income is also a bargaining resource that determines his share of divorce settlements. However, the traditional division of labor in families suggests that the father's income is also a family resource. Men have more control over their income than other family members do, but wives and children also have a claim on men's income (England and Farkas, 1986; Sørensen and McLanahan, 1987). Father's income, therefore, indicates both his own resources and his ability to contribute to property settlements and child support awards. We cannot predict the net effect of father's income on settlements. Income as father's own resource suggests a negative effect on property and support awarded to mother; as a family resource, the effect is likely to be positive.

Both income variables are missing for a large number of cases. To avoid reducing the sample, we recoded missing values to the sample mean and included dummy variables for cases with missing data on parents' income (FDUMINC, MDUMINC). We also take into account parents' wealth by including linear and quadratic terms for the total value of property in the divorce settlement (TOTVALUE, TOTVALSQ).

In addition to family characteristics, we include variables that indicate the effects of the legal environment on property settlements and child support awards. Access to legal advice is a resource that may increase each parent's ability to acquire a favorable settlement. We contrast cases in which only one parent has an attorney (MOTHREP, FATHREP) and cases in which neither parent has an attorney (NEITHER) with the omitted category—both parents have attorneys. Administrative procedures may also affect the outcome of property and support negotiations. In Wisconsin, child support is administered by counties. Milwaukee, the state's largest county, is somewhat less efficient in enforcing and dis-

TABLE 4
Definitions of Variables and Descriptive Statistics

| Abbreviation | Description | Notes on operationalization | Unweighted mean | Standard deviation |
|--------------|-----------------------------------------------------------------|--------------------------------------------------------------------------|-----------------|--------------------|
| — | Value of property awarded to mother | In thousands of dollars | 13.472 | 27.349 |
| — | Support obligation per month | In dollars; equals 0 if there is no award | 292.6 | 301.8 |
| DURATION | Length of marriage in years | Calculated as of initial divorce petition date | 10.350 | 6.463 |
| KIDS | Number of minor children in the couple's family | Restricted to children eligible for support in the divorce action | 1.820 | .932 |
| KIDSQ | Number of children-squared | | 4.181 | 5.436 |
| TOTVALUE | Total value of property distributed in the divorce case | In thousands of dollars | 23.578 | 43.854 |
| TOTVALSQ | Total value of property-squared | | 2477.6 | 1310.7 |
| FINCOME | Father's gross monthly income | In thousands of dollars | 1.591 | 1.458 |
| MINCOME | Mother's gross monthly income | In thousands of dollars | .838 | .543 |
| FDUMINC | Father's income is missing | 1 = missing; 0 otherwise | .191 | .393 |
| MDUMINC | Mother's income is missing | 1 = missing; 0 otherwise | .134 | .341 |
| MOTHREP | The mother is represented by an attorney, but the father is not | 1 = mother has an attorney and father does not; 0 otherwise ^a | .315 | .465 |
| FATHREP | The father is represented by an attorney, but the mother is not | 1 = father has an attorney and mother does not; 0 otherwise ^a | .042 | .201 |
| NEITHER | Neither parent is represented by an attorney | 1 = neither parent has an attorney; 0 otherwise ^a | .040 | .196 |
| MILWAUKEE | County in which divorce was awarded | 1 = case heard in Milwaukee; 0 otherwise | .113 | .317 |

^a The omitted category for the legal representation variables is "both parents have an attorney."

tributing child support payments (*Milwaukee Journal*, 1985), in part, due to the difficulties of pursuing delinquent payers in a large urban environment (see Chambers, 1979). If child support collection is inefficient, custodial mothers have a greater incentive to bargain for a larger property settlement in exchange for a smaller or no support award. We include a dummy variable indicating whether or not the divorce occurred in Milwaukee.

Findings: pooled model. Table 5 reports the parameters for the pooled, bivariate tobit model of the amount of property and support awarded to custodial mothers. The bottom of the table shows the correlation (ρ) between the residuals for the two equations. Controlling for common predictors, the correlation between the amount of property and child support awarded to custodial mothers is .156. While this is lower than the .478 bivariate correlation reported earlier, the positive association between property and support is still statistically significant. Controlling for the total value of property explains more of the association between property and support than other variables, including parents' incomes, number of children, and legal representation ($\rho = .160$ controlling only for wealth).¹⁴ These findings suggest that, in the aggregate, the outcomes of divorce settlements are determined more by variations in power inequalities and altruistic concern for children's material well-being than by trade-offs to maximize differences in parents' preferences for property or child support.

The upper part of Table 5 provides additional evidence for the role of power differences and concern for children in explaining divorce settlements. The first two columns of the table show the net effects of individual and family characteristics on the value of property that custodial mothers receive.¹⁵ Both property and income are measured in thousands of dollars.

¹⁴ In analyses not shown here, we investigated the association between property and support for two subsamples of cases: those with the most valuable property (total values of \$27,000 or more) and those with both property and support awards (i.e., excluding those with 0 awards). The former analysis focuses on parents who have the greatest flexibility to engage in trades between property and support because they have more assets and income. The latter focuses on the potential for exchanges between property and support, given that settlements include both types of awards. In both subsamples, the positive statistically significant association between property and support persists. In a third analysis, we specified the support award as a dichotomy (i.e., whether or not the settlement included a support award) instead of as a continuous variable; property awards remained as a continuous variable. We were unable to achieve convergence in our models using the combination of the continuous property variable and a dichotomous support variable.

¹⁵ Coefficients in tobit regressions can be interpreted like those in OLS regressions (i.e., they represent the change in the dependent variable produced by a unit change in the independent variable). In tobit regressions, however, the coefficients refer to the latent distribution of the dependent variable or the distribution that the variable would have if it were not censored (McDonald and Moffitt, 1980). In this analysis, the two outcomes, property and support, are censored at 0.

TABLE 5
Parameters from Bivariate Tobit Analysis of the Value of Property and Amount of Support Awarded to Mothers: Divorce Cases with Mother as Legal Custodian, Wisconsin 1980-1984

| | Value of property awarded to mother | | Child support awarded per month | |
|-------------------------------------------|-------------------------------------|--------------------|---------------------------------|--------------------|
| | Parameter | <i>t</i> statistic | Parameter | <i>t</i> statistic |
| DURATION | .268* | 5.38 | 3.980* | 3.37 |
| KIDS | .274 | .35 | 121.176* | 6.30 |
| KIDSQ | -.045 | -.34 | -13.766* | -4.10 |
| TOTVALUE | .454* | 36.01 | .565 | 1.86 |
| TOTVALSQ | .477 × 10 ⁻³ * | 12.18 | .707 × 10 ⁻² * | 7.37 |
| FINCOME | .387 | 1.92 | 69.117* | 13.94 |
| MINCOME | 1.913* | 3.70 | -63.332* | -5.07 |
| FDUMINC | 1.284 | 1.73 | -115.055* | -6.43 |
| MDUMINC | .077 | .09 | -15.458 | -.79 |
| MOTHREP | -.495 | -.78 | -29.219 | -1.93 |
| FATHREP | -1.883 | -1.31 | -65.891* | -2.08 |
| NEITHER | -1.072 | -.71 | -75.961* | -2.20 |
| MILWAUKEE | -.109 | -.12 | 11.152 | .52 |
| Constant | -4.718* | -3.97 | 24.563 | .87 |
| σ | 9.866* | 47.27 | 247.148* | 48.40 |
| Number of cases | | | 1301 | |
| -2(log likelihood) | | | 25110 | |
| ρ (correlation between residuals) | | | .156* | |
| | | | (9.23) ^a | |
| ρ (zero-order) | | | .478* | |
| | | | (38.06) ^a | |
| ρ (controlling for TOTVALUE and TOTVALSQ) | | | .160* | |
| | | | (9.50) ^a | |

^a *t* statistic.

* Parameter is at least twice its standard error.

The most striking finding is the large positive effect of mother's income on her share of the property. Just as wives' earnings increase their control over economic decisions within marriage (Scanlon, 1982; Blumstein and Schwartz, 1983) women use their earnings to improve their share of property at divorce. Parents and courts may view a wife's earnings as entitling her to more joint property. Her financial contributions to joint assets go beyond the requirements of the traditional marriage contract and so are more likely to be recognized in property settlements. Father's income also increases custodial mother's property settlements, but the effect is smaller than for mother's income. The positive net effect of fathers' income on property settlements to custodial mothers is consistent with the view that men's earnings are, in part, a family resource. Fathers

who have more resources are able to give more to their children in divorce settlements.

Couples who were married longer allocate more property to the custodial mother. Each year of marriage is worth an increment of \$268 in mothers' property awards. The positive effect of marital duration on property awards may occur because wives in long-term marriages may have more relationship-specific power over their husbands (e.g., ability to anticipate and circumvent husbands' bargaining tactics) (England and Farkas, 1986). Alternatively, marital duration may reflect a cohort effect. That is, couples who married in earlier periods are more likely to view the marriage contract as an agreement about the economic division of labor. Husbands, according to this contract, must fulfill breadwinning responsibilities while wives care for the home and children. Under the traditional marriage contract, even if husbands want to leave the marriage, their economic responsibilities to their former wife and children continue (Weitzman and Dixon, 1980). Other family characteristics have little or no effect on the amount of property that custodial mothers receive.

The second two columns of Table 5 show the effects of the same independent variables on the amount of child support awarded to custodial mothers. Again, socioeconomic characteristics are more important than other factors in determining support awards. As anticipated, mother's income decreases the amount of support awarded, while father's income increases the amount awarded. Custodial mother's income is inversely related to her need for support; mothers with more income have the potential to support children by themselves. Father's income, on the other hand, indicates his ability to pay support (Cassetty, 1978; Beller and Graham 1986). Other indicators of need, number of children and marital duration, also affect the amount of awards. The positive effect of marital duration on awards may reflect parents' commitment to children. Parents who have been married longer generally have older children, and child's age indicates parental time invested in childrearing. The relationship between legal representation and child support awards is also generally consistent with inequality and children's needs interpretations. When both parents have attorneys, support awards are higher. This may occur because both spouses are likely to retain attorneys when mothers seek large support awards. In contrast, when neither parent or just the father has an attorney, men's bargaining advantage is enhanced and women receive less support. When mothers have attorneys but fathers do not, less support is awarded than when both parents have attorneys, but the effect is not quite statistically significant. Although legal resources should increase the amount of child support that mothers receive, divorces in which only the mother is represented by an attorney

may be more likely to occur because of desertion. The father's absence from divorce proceedings limits the likelihood of a support award.

Findings: within husband–wife income groups. Although the results in Table 5 suggest that inequality in spouses' power or commitment to children dominates trade-offs in negotiations between property settlements and child support, it is possible to identify subgroups in which trade-offs may be more and less common. Specifically, we expect that when spouses have relatively equal control over economic resources, they are more likely to compromise about how much property and support each receives than when one spouse is considerably more powerful. We also expect that, net of other factors, divorce settlements for couples in which husbands and wives have approximately equal incomes will award a larger proportion of the total settlement to wives than settlements for couples in which husbands have much higher incomes than wives. Table 6 reports parameter estimates for our model of property settlements and support awards for two types of couples: those in which the wife's income is at least 70% of the husband's income and those in which wife's income is less than 70% of her husband's.¹⁶ Of those with complete income information, approximately 40% of the cases are in the former group, 60% in the latter. We discuss the results in Table 6 and then compare wives' share of the total settlement for the two husband–wife income groups.

A comparison of the residual association between the amount of property and child support awarded to custodial mothers within each husband–wife income category shows general support for our hypothesis that trade-offs are more common among relative equals. The residual correlation (ρ) for couples with relatively equal incomes is $-.086$, while for couples where husbands have much higher incomes, the correlation is $.123$. The difference between the correlations is statistically significant ($z = -5.05$, $p < .001$). Controlling for the difference between spouses' incomes also diminishes the effects of other independent variables on property settlements and support awards. The negative effect of mother's income on the child support award becomes insignificant when parents' incomes are approximately equal. Among couples where husbands have higher incomes, the positive effect of mother's income on her property settlement also becomes insignificant.¹⁷

¹⁶ This analysis excludes cases with missing data on either spouse's income (361 cases or 28% of the cases in the pooled model).

¹⁷ The only other important difference between Tables 5 and 6 in the effects of the independent variables on property settlements and child support is that the sign changes on the dummy variable indicating whether or not the father is the only one represented by a lawyer. Among cases with relative income equality, when only the father has a lawyer, mothers receive a larger property settlement than when both parents have a lawyer. In contrast, among cases with greater income inequality, when only the father has a lawyer,

TABLE 6
 Bivariate Tobit Analysis of Property and Child Support Awarded to Mothers by Husband-Wife Income Inequality: Divorce Cases with Mother
 as Legal Custodian, Wisconsin 1980-1984

| | Husband and wife have similar incomes | | | | Husband's income is greater than wife's | | | |
|--------------------------------------------------|---------------------------------------|-------------|---------------------------------|-------------|-----------------------------------------|-------------|---------------------------------|-------------|
| | Value of property awarded to mother | | Child support awarded per month | | Value of property awarded to mother | | Child support awarded per month | |
| | Parameter | t statistic | Parameter | t statistic | Parameter | t statistic | Parameter | t statistic |
| DURATION | .109 | 1.45 | -1.48 | -1.32 | .222* | 2.83 | -1.71 | .936 |
| KIDS | .119 | .125 | 75.7* | 5.32 | 1.22 | .665 | 114.4* | 2.73 |
| KIDSQ | -.011 | -.082 | -8.49* | -3.94 | -.266 | -.691 | -6.92 | -.798 |
| TOTALVALUE | .651* | 16.1 | .077 | .130 | .474* | 19.0 | 1.97* | 3.32 |
| TOTALVSQ/1000 | -.708* | -2.03 | 5.23 | .993 | .368* | 3.30 | -3.25 | -1.21 |
| FINCOME | -.452 | -.619 | 135.2* | 12.2 | .625 | 1.38 | 154.5* | 14.1 |
| MINCOME | 1.82* | 3.19 | -4.93 | -.566 | .603 | .500 | -149.1* | -5.18 |
| MOTHPREP | .226 | .267 | 2.69 | .218 | -.808 | -.776 | 22.2 | .912 |
| FATHREP | 5.12* | 2.31 | -44.2 | -1.30 | -4.83* | -2.27 | -43.02 | -.889 |
| NEITHER | .647 | .350 | -30.7 | -1.17 | -.662 | -.289 | -27.7 | -.510 |
| MILWAUKEE | -1.29 | -.964 | -25.8 | -1.29 | .080 | .061 | 43.5 | 1.41 |
| Constant | -4.27* | -2.66 | -36.3 | -1.54 | -4.56* | -2.08 | -70.7 | -1.40 |
| σ | 7.24* | 25.0 | 111.6* | 26.1 | 10.1* | 31.2 | 246.0* | 32.8 |
| Number of cases | | | 378 | | | | 562 | |
| -2(log likelihood) | | | 6417 | | | | 11291 | |
| ρ (correlation between residuals) | | | -.086* | | | | .123* | |
| | | | (-2.62) ^a | | | | (4.87) ^a | |
| ρ (zero-order) | | | .157* | | | | .461* | |
| | | | (4.92) ^a | | | | (24.2) ^a | |
| ρ (controlling for TOTALVALUE and TOTALVSQ) | | | -.060 | | | | .156* | |
| | | | (-1.83) ^a | | | | (6.22) ^a | |

Note. Husbands and wives are assumed to have similar incomes if the wife's income is at least 70% of the husband's.

^a t statistic.

* Parameter is at least twice its standard error.

That divorce settlements between relative equals reflect trade-offs while those between unequals benefit one party suggests support for the hypothesis that inequality plays an important role in determining the outcome of divorce negotiations. Stronger support for the inequality hypothesis could come from comparing the total settlements received by wives in each husband–wife income group. When wives have relatively more power (i.e., those whose incomes are approximately equal to their husbands), we expect them to receive a larger portion of the total divorce settlement. Wives' share of the settlement is the sum of the yearly child support award and the investment value of the property she receives in the settlement.¹⁸ We define the total assets available for distribution at divorce as the sum of noncustodial father's annual income and the investment value of all property available for distribution at the time of divorce. Contrary to our expectations, differences between husbands' and wives' incomes do not affect the portion of total settlements awarded to wives. Regardless of the degree of husband–wife income inequality, wives in both groups receive 23% of the total settlement. This finding suggests that at least some husbands may use their greater economic power to achieve the altruistic goal of providing for children's material welfare rather than to achieve their own self-interest.

An alternative definition of total settlements, however, provides evidence that economic power is used for self-interest. Our assumption that the noncustodial father's entire income can be drawn on for child support conflicts with some guidelines for uniform child support awards (e.g., Williams, 1986). Parents (and courts) may treat part of the noncustodial father's income as exempt from child support because the income is needed for the father's own living expenses. Following this perspective, we recompute the total value of assets available for distribution at divorce as the sum of noncustodial father's *net* annual income and the investment value of all property. Father's net income is his gross income minus his living expenses. We conservatively define living expenses as the poverty level income for a single adult under age 65. For 1982, a year included in our study, the poverty level was \$5019 (U.S. Bureau of the Census, 1984: Table A2). By this revised definition, wives in couples with relatively equal incomes receive 41% of the total settlement while wives in

mothers receive a smaller property settlement than when both parents have a lawyer. The negative effect of father's legal representation suggests that a lawyer is a resource that parents can use to improve their chances of a favorable settlement. We are reluctant to interpret the difference in signs because of the small number of cases in which only fathers have lawyers, but suspect that among "egalitarian" couples, mothers may not use lawyers if they think that they are in a particularly strong bargaining position.

¹⁸ As in our examples above, we treat the investment value of the property as 10% of its total value.

couples where husbands have much higher incomes receive 30%.¹⁹ The difference in percentages is statistically significant. This is consistent with the view that wives use their income resources to acquire a larger share of the total divorce settlement. Our assumption about father's minimum living expenses results in a difference between the two husband-wife income categories because husbands in the "egalitarian" income group have lower mean incomes than those in the "husband-dominated" income group (\$12,878 and \$24,482, respectively). Choice of which comparison—the one using all of the noncustodial father's income or the one using his net income—better represents wife's share of the total settlement depends on philosophical beliefs about the appropriate standard for child support (Williams, 1986).

CONCLUSIONS

Our findings show that property settlements do not alter the disparity between men's and women's postdivorce economic welfare. Divorcing couples own little valuable property. Even if women received all joint assets at divorce, they would still be severely disadvantaged compared to men. Despite the low absolute value of joint assets, property is a significant element in financial settlements *compared to* child and family support awards. The investment value of property is worth between one- and two-thirds of yearly support awards. Property settlements have the additional advantage that they provide material transfers at the time of divorce. Support awards promise future income, but these promises are not always kept. Thus, compared to the other economic component of divorce settlements, property is important and provides the potential for parents to trade one for the other to achieve their preferences.

The picture of relatively equal parents bargaining and trading until they reach agreement is inaccurate. Inequality characterizes most divorce negotiations. In most cases the parent who receives a favorable property settlement also receives a favorable support award. As in the resolution of marital conflict, spouses' relative power determines the outcome of divorce conflict about property and support. Among the subset of couples in which husbands and wives are relatively equal, property settlements and child support awards reflect trade-offs. For these couples, outcomes of divorce negotiations depend, largely, on bargaining and compromise. Thus, Mnookin and Kornhauser's (1979) theory of divorce bargaining may be accurate for subsets of the population in which husbands and wives have approximately equal earnings *and* couples own enough property to make trade-offs between property and support feasible. For the remainder of the population, where inequality between husbands and wives is greater, the outcome of divorce negotiations reflects either the

¹⁹ Here, as above, calculations exclude cases in which the denominator is less than 0.

relatively more powerful spouse's attempt to achieve self-interest or the noncustodial father's altruistic concern for children.

Better understanding of divorce settlements requires research on variation in parents' inequality. Why are some mothers more successful in achieving favorable financial settlements than others? Other research should examine more systematically the resources to which men and women have differential access (e.g, various sources of income, aggressive legal advice, information about asset value), variation in the effectiveness with which they use the same resources, and which resources are the best bargaining tools. Future research should also investigate the degree to which parents seek self-interested and altruistic goals in divorce negotiations.

In general, our analyses do not support the consensus view which underpins policies that leave negotiations up to spouses. According to the consensus view, although spouses (and attorneys) anticipate judges' decisions, the law can and should remain removed from the divorce process (Mnookin and Kornhauser, 1979).²⁰ But laws have strong, direct effects on the process and outcome of divorce negotiations. No-fault divorce laws, for example, alter the balance of power in property negotiations (McLindon, 1987), in part, by reducing the legitimacy of women's claims on men's breadwinning capacity. This leaves women and children with a smaller share of joint property than under previous laws (Weitzman, 1985). Child support reforms, on the other hand, may improve the bargaining position of custodial mothers. Recent federal legislation requires that child support awards be determined by uniform standards and encourages more rigorous enforcement. Both strategies place a lower bound on noncustodial fathers' contributions to children's postdivorce support, thereby further limiting the potential for informal negotiations involving property settlements and child support awards. Our findings suggest that limits to informal negotiations may be particularly important for the well-being of children in the majority of cases when the mother's predivorce income is lower than the father's.

REFERENCES

- Albrecht, S. L. (1980). "Reactions and adjustments to divorce: Differences in the experiences of males and females," *Family Relations* 29, 59-68.
- Arendell, T. (1986). *Mothers and Divorce: Legal, Economic, and Social Dilemmas*, Univ. of California Press, Berkeley.
- Avery, R. B., and Hotz, V. J. (1983). *HOTZTRAN User's Manual*, Unpublished manuscript, Economics Research Center/NORC, Chicago.
- Becker, G. S. (1981). *A Treatise on the Family*, Harvard Univ. Press, Cambridge, MA.
- Beller, A. H., and Graham, J. W. (1988). "Child support payments: Evidence from repeated cross sections," *American Economic Review* 78, 81-85.

²⁰ Mnookin (1984) proposes exceptions to judicial nonintervention only in extreme cases.

- Beller, A. H., and Graham, J. W. (1986). "The determinants of child support income," *Social Science Quarterly* 67, 353-364.
- Bianchi, S. M., and Spain, D. (1986). *American Women in Transition*, Sage, New York.
- Blood, R. O., Jr., and Wolfe, D. M. (1960). [1965 ed.] *Husbands and Wives: The Dynamics of Married Living*, Free Press, New York.
- Blumstein, P., and Schwartz, P. (1983). *American Couples: Money, Work, Sex, Morrow*, New York.
- Casetty, J. (1978). *Child Support and Public Policy*, Lexington Books, Lexington, MA.
- Castro Martin, T., and Bumpass, L. (1989). "Recent trends in marital disruption," *Demography* 26, 37-51.
- Chambers, D. L. (1979). *Making Fathers Pay: The Enforcement of Child Support*, Univ. of Chicago Press, Chicago.
- Duncan, G. J., and Hoffman, S. D. (1985a). "A reconsideration of the economic consequences of marital disruption," *Demography* 22, 485-497.
- Duncan, G. J., and Hoffman, S. D. (1985b). "Economic consequences of marital instability," in *Horizontal Equity, Uncertainty, and Economic Well-Being*, (Martin David and Timothy Smeeding, Eds.), pp. 427-467. Univ. of Chicago Press, Chicago.
- England, P., and Farkas, G. (1986). *Households, Employment, and Gender: A Social, Economic and Demographic View*, Aldine, New York.
- Erlanger, H. S., Chambliss, E., and Melli, M. S. (1987). "Participation and flexibility in informal processes: Cautions from the divorce context," *Law and Society Review* 21, 585-604.
- Espenshade, T. J. (1984). *Investing in Children: New Estimates of Parental Expenditures*, Urban Institute Press, Washington, D.C.
- Foster, H. H., Jr., and Freed, D. J. (1984). "Law and the family: politics of divorce process—bargaining leverage, unfair edge," *New York Law Journal* 192(7), July 11.
- Furstenberg, F. F., Jr., Morgan, S. P., and Allison, P. D. (1987). "Paternal participation and children's well-being after marital disruption," *American Sociological Review* 52, 695-701.
- Garfinkel, I., Corbett, T. J., MacDonald, M., McLanahan, S., Robins, P. K., Schaeffer, N. C., and Seltzer, J. A. (1988). *Evaluation Design for the Wisconsin Child Support Assurance Demonstration*, Report produced under contract with the Wisconsin Department of Health and Social Services, Institute for Research on Poverty, University of Wisconsin—Madison.
- Garfinkel, I., and McLanahan, S. S. (1986). *Single Mothers and Their Children: A New American Dilemma*, Urban Institute Press, Washington, D.C.
- Gillespie, D. L. (1971). "Who has the power? The marital struggle," *Journal of Marriage and the Family* 33, 445-458.
- Goode, W. J. (1956). [1970 ed.] *Women in Divorce*, Greenwood Press, Westport, CT.
- Harrison, M., and Tucker, T. (1986). "Maintenance, custody and access," in *Settling Up: Property and Income Distribution on Divorce in Australia*, (Peter McDonald, Ed.), pp. 259-278. Prentice-Hall of Australia, Sydney.
- Hetherington, E. M., Camara, K. A., and Featherman, D. L. (1983). "Achievement and intellectual functioning of children in one-parent households," in *Achievement and Achievement Motives: Psychological and Sociological Approaches*, (Janet T. Spence, Ed.), pp. 208-284. Freeman, San Francisco.
- Kressel, K. (1985). *The Process of Divorce: How Professionals and Couples Negotiate Settlements*, Basic Books, New York.
- Landes, E. M. (1978). "Economics of alimony," *Journal of Legal Studies* 7, 35-63.
- Maddala, G. S. (1983). *Limited-Dependent and Qualitative Variables in Econometrics*, Cambridge Univ. Press, Cambridge.
- Manning, W., Seltzer, J. A., and Schaeffer, N. C. (1987). *Wisconsin Child Support Project*

- Data Sets, Unpublished paper prepared for the Institute for Research on Poverty, Univ. of Wisconsin-Madison, October.
- McDonald, J. F., and Moffitt, R. A. (1980). "The uses of tobit analysis," *Review of Economics and Statistics* **62**, 318-321.
- McLanahan, S. (1985). "Family structure and the reproduction of poverty," *American Journal of Sociology* **90**, 873-901.
- McLanahan, S., and Bumpass, L. (1988). "Intergenerational consequences of family disruption," *American Journal of Sociology* **94**, 130-152.
- McLindon, J. B. (1987). "Separate but unequal: The economic disaster of divorce for women and children," *Family Law Quarterly* **21**, 351-409.
- Melli, M. S. (1983). "Child support awards: A study of the exercise of judicial discretion," Institute for Research on Poverty Discussion Paper No. 734-83. University of Wisconsin, Madison.
- Melli, M. S., Erlanger, H. S., and Chambliss, E. (1985). "The process of negotiation: An exploratory investigation in the divorce context," *Disputes Processing Research Program Working Paper, Ser. 7*, Institute for Legal Studies, Univ. of Wisconsin-Madison.
- Milwaukee Journal. (1985). "County spends \$101,000 studying child support backlog." June 27.
- Mnookin, R. H. (1984). "Divorce bargaining: The limits on private ordering," in *The Resolution of Family Conflict: Comparative Legal Perspectives*, (John M. Eckelaar and Sanford N. Katz, Eds.), pp. 364-383. Butterworths, Toronto.
- Mnookin, R. H., and Kornhauser, L. (1979). "Bargaining in the shadow of the law," *Yale Law Journal* **88**, 950-997.
- Moore, K. A., and Sawhill, I. V. (1976). "Implications of women's employment for home and family life," in *Women and the American Economy: A Look to the 1980s*. (Juanita M. Kreps, Ed.), pp. 102-122. Prentice-Hall, Englewood Cliffs, NJ.
- Pearson, J., and Thoennes, N. (1984). "Mediating and litigating custody disputes: A longitudinal evaluation," *Family Law Quarterly* **17**, 497-524.
- Peters, H. E. (1986). "Marriage and divorce: Informational constraints and private contracting," *American Economic Review* **76**, 437-454.
- Scanzoni, J. (1982). *Sexual Bargaining: Power Politics in the American Marriage*, 2nd ed. Univ. of Chicago Press, Chicago.
- Sørensen, A., and McLanahan, S. (1987). "Married women's economic dependency, 1940-1980," *American Journal of Sociology* **93**, 659-687.
- Spanier, G. B., and Casto, R. F. (1979). "Adjustment to separation and divorce: A qualitative analysis," in *Divorce and Separation: Context, Causes, and Consequences*. (George Levinger and Oliver C. Moles, Ed.), pp. 211-227. Basic Books, New York.
- Spanier, G. B., and Thompson, L. (1984). *Parting: The Aftermath of Separation and Divorce*, Sage, Beverly Hills.
- Straus, M. A., Gelles, R. J., and Steinmetz, S. K. (1980). *Behind Closed Doors: Violence in the American Family*, Anchor Press/Doubleday, Garden City, NJ.
- U.S. Bureau of the Census (1981). *Child Support and Alimony: 1978*, (Current Population Reports Series P-23, No. 112). Washington, DC: U.S. Government Printing Office.
- U.S. Bureau of the Census (1983). *Child Support and Alimony: 1981*, (Current Population Reports Series P-23, No. 124). Washington, DC: U.S. Government Printing Office.
- U.S. Bureau of the Census (1984). *Characteristics of the Population Below the Poverty Level: 1982*, (Current Population Reports Series P-60, No. 144). Washington, DC: U.S. Government Printing Office.
- U.S. Bureau of the Census (1986a). *Child Support and Alimony: 1983*, (Current Population Reports Series P-23, No. 148). Washington, DC: U.S. Government Printing Office.
- U.S. Bureau of the Census (1986b). *Marital Status and Living Arrangements: March 1985*, (Current Population Reports Series P-20, No. 410). Washington, DC: U.S. Government Printing Office.

- U.S. Bureau of the Census (1987). *Child Support and Alimony: 1985*, (Current Population Reports Series P-23, No. 152). Washington, DC: U.S. Government Printing Office.
- U.S. Bureau of the Census (1988). *Poverty in the United States: 1986*, (Current Population Reports Series P-60, No. 160). Washington, DC: U.S. Government Printing Office.
- Wallerstein, J. S., and Kelly, J. B. (1980). *Surviving the Breakup: How Children and Parents Cope with Divorce*, Basic Books, New York.
- Weitzman, L. J. (1985). *The Divorce Revolution: The Unexpected Social and Economic Consequences for Women and Children in America*, Free Press, New York.
- Weitzman, L. J. (1981). "The economics of divorce: Social and economic consequences of property, alimony and child support awards," *UCLA Law Review* **28**, 1181-1268.
- Weitzman, L. J., and Dixon, R. B. (1980). "The transformation of legal marriage through no-fault divorce," *in Family in Transition* (Arlene Skolnick and Jerome H. Skolnick, Eds.), 3rd ed., pp. 354-367. Little, Brown and Co., Boston.
- Williams, R. G. (1986). "Guidelines for setting levels of child support orders," *Family Law Quarterly* **21**, 281-324.
- Wishik, H. R. (1986). "Economics of divorce: An exploratory study," *Family Law Quarterly* **22**, 79-107.