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Divorce and Social Security

The debate over Social Security reform has for the most part ignored the inequities in how the system treats families. These inequities derive from the adjustments that Social Security makes to benefits where spouses, survivors and divorced former partners of workers are involved.

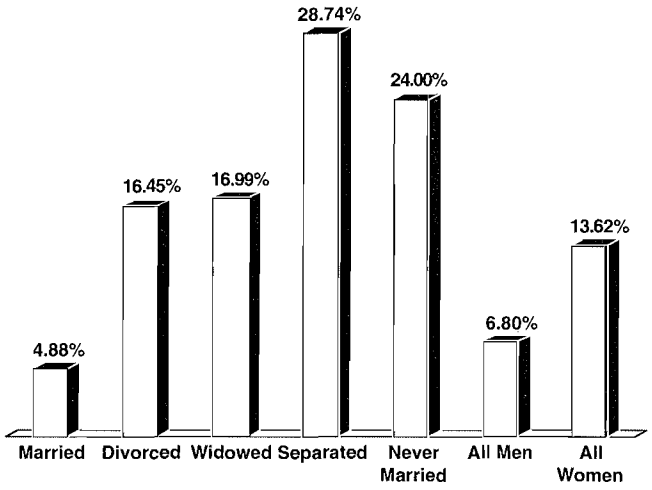
How Social Security Treats Divorce. Social Security follows the rule that a divorced person married for 10 years or more is entitled to full spousal and survivor benefits, while one married less than 10 years is entitled to none. Some examples show how this rule affects benefits:

- If a spouse divorces a worker after 9 years, 11 months and 27 days of marriage, the spouse gets nothing from Social Security in auxiliary benefits and is entitled to no share of the worker's benefit. (Spouses can still get benefits on their own earnings records.)
- If a worker has five spouses in succession, each for 10 years and 1 day of marriage, those spouses are entitled to hundreds of thousands of dollars more in Social Security benefits due to the marriage than the always-married spouse of another worker paying the same amount of taxes.
- If a spouse divorces a worker after 40 years of marriage, the spouse is entitled to a spousal benefit of only one-half the benefit garnered by the worker as long as the worker is alive; however, should the worker die, the divorced spouse is entitled to a survivor's benefit equal to the worker's full benefit.
- If a single head of household raises children and works for 40 years at $10,000 a year, she is entitled to substantially lower Social Security benefits than a spouse who never works and never raises children, as long as she was married to a rich worker for 10 years or more.
- A divorced person who was married to a much older worker will, on the average, get substantially more benefits than a divorced person who was married to a worker of the same age — because those who marry older workers are more likely to get survivor's benefits, which are more generous than spousal benefits.
- A middle-class divorced spouse of a rich worker could face a significant marriage penalty — forfeiting her survivor's benefits — if she marries another middle-class worker.

FIGURE I

Probability That People Age 65 and Over Will Be Below the Poverty Level

(1997)



Source: Urban Institute, 1999, based on Current Population Survey.

Divorce and Poverty. In the past, inequities in Social Security's treatment of divorce affected only a modest number of retirees because of the infrequency of divorce and the high frequency of remarriage among divorcees. But divorce is increasingly prevalent today. And because women are more likely than men to receive survivor's benefits or spousal benefits based on the income of a higher-earning spouse, these inequities contribute to poverty among elderly women.

- The percentage of women currently divorced has risen among all age groups, more than tripling from 2.54 percent in 1970 to 8.16 percent in 1997.
- Among men and women ages 65 and over, the currently divorced are more likely to fall below the poverty line than those who are married; the probability is even greater for those who are widowed, separated or were never married; and the overall poverty rate is much higher for women than men. [See Figure I.]
- Women comprise 73.4 percent and men only 26.6 percent of poor seniors. [See Figure II.]

Equity Principles for Social Security. Two equity principles should apply to Social Security and its treatment of the family.

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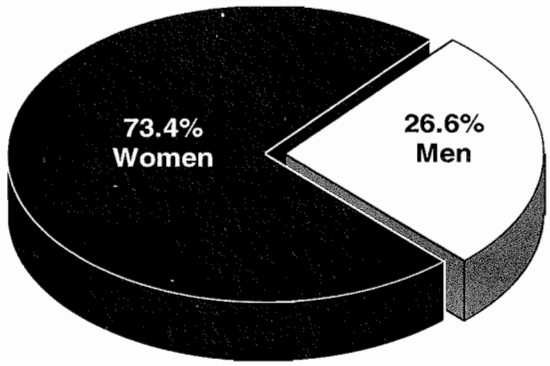
One is equal justice, or horizontal equity, which means individuals in equal circumstances should be treated the same. In the case of divorce, this generally means married couples should share equally in any assets accrued during their marriage.

The other is that benefits should be related to need, or vertical equity. Social Security exists primarily to protect the truly old against poverty; thus its benefit formula is progressive. Furthermore, the National Commission on Retirement Policy has recommended that a new minimum benefit be created and indexed to wages to insure that almost all the elderly are kept out of poverty.

It is important that these principles not be confused. For example, guaranteeing that a rich divorced person shares fairly in the assets deriving from his or her former marriage may have nothing to do with need or progressivity, but it may still be fair. Similarly, there are many poor elderly whose condition has nothing to do with divorce, so granting them extra benefits as divorced persons could be progressive but neither fair nor well targeted.

FIGURE II

Percentage Distribution of Elderly Persons in Poverty



Source: Urban Institute, based on Current Population Survey .

The Reform Dilemma: Winners and Losers. Reforms to remove the inequities in Social Security are typically stymied because they create new sets of winners and losers. Past Congresses patched on new benefits for spouses and divorced persons, and pretended the changes created only winners. However, the current level of promised Social Security benefits is unsustainable, so the pretense that legislation can create only winners is no longer possible.

This creates an opportunity to institute reforms that better address those in need, as well as provide more equal justice.

Reforms Based on Equity Principles. A Social Security system reformed according to equity principles would incorporate the following elements:

- A minimum benefit that removes most of the elderly from poverty and that almost all can qualify for.
- A system of earnings sharing that gives each spouse credit for half the taxes paid, or a system of benefit sharing that prorates benefits according to the share of a normal working life two spouses spend together.
- A change in benefit formulas so the system no longer provides substantially more benefits to a couple with $50,000 in combined earnings split $45,000/$5,000 than to a couple with the same earnings split $25,000/$25,000.
- The creation of an actuarial balance so the system no longer provides greater benefits to couples simply because their age difference is greater.

Including Principles in Basic Reforms. The individual accounts proposed in some Social Security reform plans could easily be designed to be shared more or less equally in the case of divorce. On the other hand, individual accounts and the USA accounts proposed by President Clinton are not designed or intended to deal with the issue of insuring against poverty in old age. For this reason, it is hard to set them up to replace a Social Security system that inevitably has a significant element of redistribution to it. Further, individual accounts and USA accounts do not necessarily reduce progressivity any more than do private pensions. The goal should be to find a proper balance.

Whatever form reform takes, it should follow principles that help insure both that more elderly are kept out of poverty and that spouses share in retirement benefits in an equitable manner.

This Brief Analysis is based on testimony by C. Eugene Steuerle, Senior Fellow of the Urban Institute, before the United States Senate Special Committee on Aging. (Testimony available at www.urban.org.)