A Comment on “Nonmarket Services: An Offset in Certain Cases”

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Introduction

David Reaume’s paper about offsets for nonmarket services (this journal, 1999) is an interesting effort to convert important aspects of the analysis of lost services into utility functions. His essential argument is that “under certain reasonable assumptions the estimate of lost nonmarket services requires a negative offset to the usual calculation in wrongful death cases.” That point, in itself, is rather mundane and can be established in a much simpler way that does not require specification of utility functions. More importantly, it does not address a critical legal issue concerning collateral source, nor does it take into account important prior papers by Gilbert, Bruce, Ward and Ireland that have considered the same underlying issue. This comment translate’s Reaume’s arguments into more conventional terms and then explains how the previous papers relate to Reaume’s analysis.

Reaume’s Argument in More Conventional Terms

Reaume is implicitly using a two adult household as the basis for his paper because services to children are not considered in the paper. This comment will also make that assumption. Although Reaume does not say so clearly, he acknowledges the fact that many nonmarket services are non rival to the family member in the sense that benefit both spouses concurrently. They are effectively public goods to both family members such that the consumption by one family member does to reduce availability to the other. For example, if one spouse paints the family house, the benefits can be equally enjoyed by both spouses without the benefit of one spouse reducing the benefit to the other. Such services are sometimes called “family goods” to distinguish those services from services one spouse might perform for the other, such

as picking up that spouse's clothes from the dry cleaning establishment. This latter type of nonmarket services represent private goods produced within the household by one spouse for the other.

Reaume's point pertains only to the part of non market services that consists of the production of private goods by each marital partner for the other. In other words, he is concerned with the fact that some services are produced by a husband for his wife without any benefit to the husband, or vice versa. If the wife is killed, the husband loses the non market services of the wife, but also has some time savings for himself in the fact that he no longer has to provide those private services that benefitted his wife, but not himself. That is the possible offset that Reaume is talking about, expressed without need for utility functions or more complex arguments.

Reaume makes two assumptions that relate to this possible offset. The first is that the husband gains positive utility from the process of providing private services to his wife (or vice versa). This, he calls "pure altruism." In this case, he argues that no offset would be required since there is no true savings to the husband. Reaume's second assumption is that each spouse incurs negative marginal utility from the private services each spouse provides to the other. In this case, each spouse is effectively "paying" for the private services being received from the other spouse by providing return private services. Reaume refers to this as a "bargain under which household tasks are apportioned according to some formula." It is in this second case that Reaume's argument for a small offset arises. In other words, the surviving spouse loses the private services that the decedent spouse had been providing, but the surviving spouse also has savings in the form of not having to provide private services to the decedent spouse. While this argument is correct, it is not a particularly surprising result.

The Collateral Source Issue Inherent in this Analysis

Reaume is implicitly using a standard for damages that may not be correct. He implicitly assumes that damages are to be valued in terms of the net loss to the surviving spouse. Thus, if the surviving spouse derived positive marginal utility from providing services to the decedent spouse, nothing should be subtracted for the savings in the surviving spouse's time. But if the surviving spouse incurred negative marginal utility from providing services to the decedent spouse, there is an offset savings that should be taken into account. However, the standard legal language does not call for such offset time savings to be considered. It may well be that any time savings the husband might have would be deemed irrelevant by the courts as a kind of collateral source issue. The standard language makes no allowance for offsets. It only asks that the trier of facts consider what the surviving spouse has lost, not what the surviving spouse has lost net of time saved by the surviving spouse. It is legally arguable that the offset should be considered, but it is also legally arguable that it should not be considered. This is consistent with arguments that have been made in the forensic economics literature that go in both directions, which will now be considered.

Literature Relevant to this Issue

The literature that is relevant to this issue is not focused on lost nonmarket services, but rather on whether the personal consumption deduction that is applied to lost earnings of the decedent spouse should be based on family income or income of the decedent only. In that literature, lost nonmarket services are only a secondary issue, but that literature does directly apply to Reaume's analysis of lost nonmarket services. The key papers in that literature are by Gilbert (1992), Bruce (1997), Ward (1999), Trout (1999) and Ireland (1999). The focus of that

literature is on whether the personal consumption of the decedent spouse that was derived from lost earnings of the surviving spouse should be considered in assessing the losses of the surviving spouse. For example, if a husband earned $75,000 and the wife earned $25,000 and the wife is wrongfully killed, should the personal consumption deduction be based on $25,000 or $100,000? Ward (1999) pointed out that using family income could result in showing a surviving husband being made better off by the death of his wife. To illustrate, a personal consumption percentage of 30 percent would result in showing that the husband was $5,000 better off because of his wife's death, at least in the lost earnings dimension of damages. The wife's personal consumption, using a family income standard (herein $100,000), would be $30,000, which is $5,000 more than her $25,000 earnings.

Gilbert (1991) had argued that there were two possible conceptions involved in this issue. He called one of these a pecuniary definition based on a net cash after reduction for personal consumption. If a family had earned $100,000 before the wife's death and the wife had personal consumption of $30,000 of the $100,000, the surviving husband could buy the same goods and services as before his wife's death for $70,000. Subject to the pecuniary definition, the damages suffered by the surviving husband need to bring him back to having an available $70,000 for expenditures. He called the other a "welfare" definition that suggested that the husband really had lost more than this narrowly defined net pecuniary definition would imply. Within this "welfare" context, the husband had all of the intangible benefits that went with having his wife alive. Gilbert then argued that if, in the broadest sense, the goal was to make the husband "whole," the personal consumption deduction should be applied only to the decedent wife's income.

Bruce (1997) argued that the issue depended on the nature of the family relationship.

Bruce posed three types of marriages, but the three types essentially condensed into two alternatives that match closely with the two assumptions Reaume made in the current paper. One, he described as the purely altruistic marriage, matching Reaume's first assumption. In an altruistic marriage, a dollar spent on personal consumption by the wife is worth a dollar to the husband because of his love for his wife. Thus the decedent wife's reduced personal consumption represents no gain to the surviving husband. Bruce described a second type of marriage as a trading marriage, very much similar to Reaume's second assumption. In this case, the amount spent by the husband on the wife's consumption is essentially a payment for the financial support and nonmarket services provided by the wife. Bruce felt that if the first type of marriage was involved, the husband was not made better off by the death of his wife and the personal consumption deduction should be applied only to the decedent wife's income. If the marriage was of a pure trading type, Bruce felt that the deduction should apply to all of family income.

Trout (1999) argued that the personal consumption deduction should be based on family income, but his argument focused on the fact that all existing measures for personal consumption were derived on that basis. Ireland (1999) argued that the loss by the surviving husband of the opportunity to spend money on his wife, assuming that he lived his wife, was a loss in addition to the loss of financial support deriving from the wife's income. In other words, the husband had revealed, by spending a part of his own income on his wife, that spending money in that way was his preferred allocation of money. To deprive someone of the preferred way of spending income, Ireland argued, was not a savings to the survivor, but an additional utility loss, even if that loss was hard to measure.

Any of these arguments, applied to non market services, becomes immediately relevant to

Reaume's arguments.

Further Elaboration

Marriages, in the real world, are neither purely altruistic nor purely bargaining arrangements. They are some mix of the two. As with Bruce (1997), Reaume assumes that spouses either get positive marginal utility from providing private services to their spouses or negative marginal utility. In most marriages, the truth is probably somewhere in between. In a reasonably happy marriage, there are some services a husband enjoys providing for his wife and some that he does not enjoy, but provides for domestic harmony. Reame's paper could easily be corrected by changing the description of his assumptions to allow both assumptions to apply to some of the services in the sets of private services being provided by each spouse for the other. However, it is an almost impossible task to determine which services really belong in each category.

The term "altruism" is misplaced in this context. A husband, might, for example, enjoy providing certain kinds of private services to any woman with whom he was involved romantically. In itself, that does not make him an "altruist" in the normal sense of that term. It simply specifies a type of nonmarket activity that he enjoys. And he may enjoy providing that service at the same time that he also understands that it increases his bargaining ability to induce his wife to provide more services to him. Fundamentally, a love relationship is not altruistic but an extension of one's own utility function to include powerful arguments relating to the welfare of a loved one. Altruism usually implies doing something for another person without expectation of any return in value to the altruist. In love relationships, reciprocity is extremely important. The reciprocity may be in the form of returned love rather than any particular quid pro quo with

respect to services or any particular formula for distributing household services, but love is still an exchange process and not just a one way transfer process, at least in healthy circumstances.

Further, to be important, love does not have to be unlimited to the extent described by Bruce in his altruistic marriage. It only has to provide arguments in the utility functions of the two spousal partners. If a wife's increasing welfare produces utility to her husband, it does not matter that her welfare is worth as much to him as his own. He will still derive pleasure from acting to improve her welfare, even when he gets no other kind of gain for himself. Suppose, for example, that husband can provide a service that would provide 10 units of satisfaction for his wife at the cost of providing a service to himself that would provide him with 4 units of satisfaction. If he values his wife's satisfaction half as much as his own, he will still get five units from providing the service to his wife instead of the four units for providing the service for himself. In the family bargaining literature, such mixed objectives are now being analyzed. Husbands and wives do not have identical interests, but bargain over the use of family resources within the context of interdependent utility functions. (See particularly, Lundberg and Pollak, 1996 and Lundberg, Pollak and Wales, also 1996.)

Reaume's argument is not earth shattering, but his paper was still useful. It is important for economists to realize that financial transactions do not always capture the true nature of losses suffered by survivors of decedents. Real world families are seldom purely altruistic in the sense described by Reaume, but they are also not pure trading relationships in which the well being of one spouse does not have value to the other spouse. Forensic economists need to think in terms of welfare considerations and to ask important questions about supposed cost savings achieved when one family member dies. Reame's paper contributes to the kind of awakening that is

needed. As this comment suggests, there is much more to say on this subject. Hopefully, Reame's paper will act as an impetus to others to deal with these issues. Models are needed that do not have purely altruistic families and purely selfish families as the only options. Families are complex social institutions within which bargaining and trading occurs, but it is not like the trading that occurs in commercial markets. The nonmarket services we need to value are produced within families and it is important that forensic economists not use simple pecuniary definitions to evade thinking about the complexity of production within families.

References

Bruce, Christopher. 1997. "Determination of Personal Consumption Exenditures in Fatal Accident Actions: A Note." *Journal of Forensic Economics*. 10(3):291-296.

Gilbert, Roy A. 1991. "Estimating Personal Consumption of a Deceased Family Member." *Journal of Forensic Economics*. 4(2):175-185.

Ireland, Thomas R. 1999. "Issues Determining the Basis of the Personal Consumption Deduction." Reading #34 in *Assessing Family Loss in Wrongful Death Litigation: The Special Roles of Lost Services and Personal Consumption.* Lawyers & Judges Publishing Co. Tucson, AZ.

Lundberg, Shelly and Robert A. Pollak. 1996. "Bargaining and Distribution in Marriage." *Journal of Economic Perspectives*. 10(4):139-158.

Lundberg, Shelley, Robert A. Pollak and Terrence J. Wales. 1996. "Do Husbands and Wives Pool Their Resources? Evidence from the United Kingdom Child Benefit." Journal of Human Resources. 32(3):463-480.

Reaume, David M. 1999. "Nonmarket Services: An Offset in Certain Cases." This journal. 9(2): 21-29.

Trout, Robert B. 1999. "Why the Basis of a Decedent's Personal Consumption Should be Family Income. Reading # 33 in *Assessing Family Loss in Wrongful Death Litigation: The Special Roles of Lost Services and Personal Consumption.* Lawyers & Judges Publishing Co. Tucson, AZ.

Ward, John O. 1999. “Defining the Basis of Decedent’s Personal Consumption in Wrongful Death Litigation: Personal or Family Earnings?” Reading #32 in *Assessing Family Loss in Wrongful Death Litigation: The Special Roles of Lost Services and Personal Consumption.* Lawyers & Judges Publishing Co. Tucson, AZ.