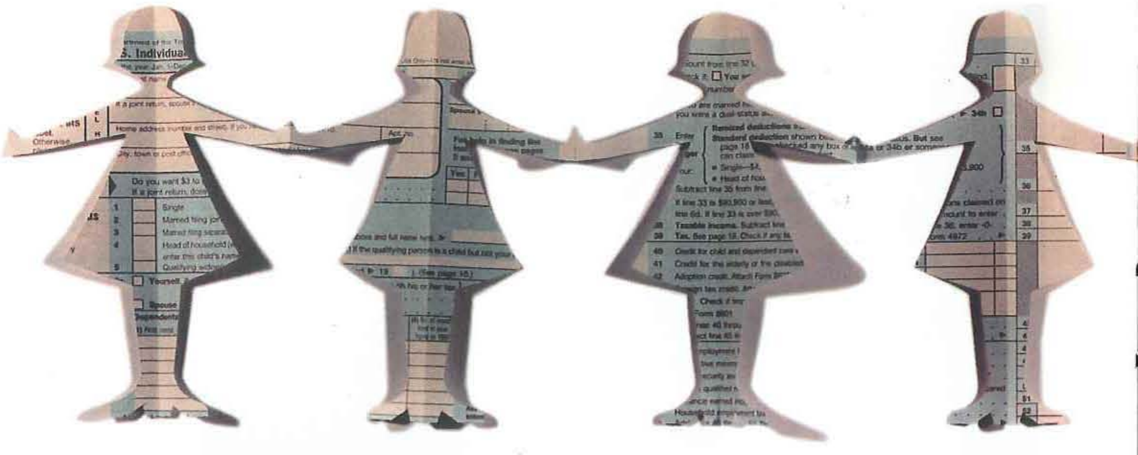


Taxing Women

by Edward J. McCaffery

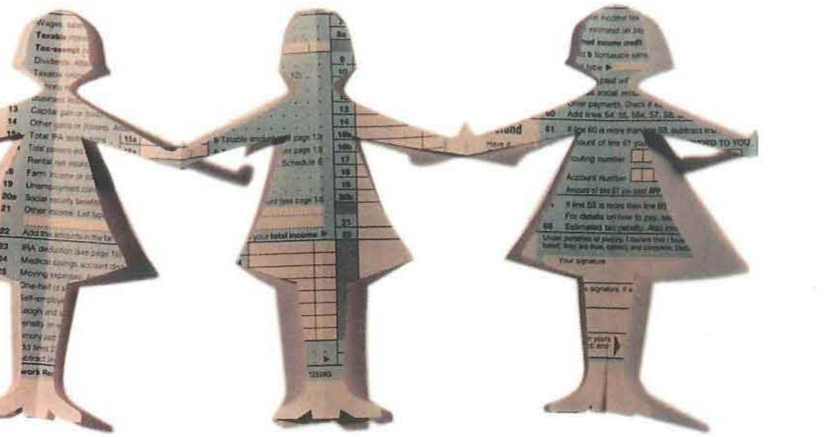
This article was adapted from Ed McCaffery's Watson Lecture last May, the month after his book, Taxing Women, *was published by the University of Chicago Press.*

McCaffery, who has taught law as a visiting associate professor in the Division of the Humanities and Social Sciences at Caltech since 1995, is also professor of law at the University of Southern California Law School, where he has taught since 1989. He studied Latin and philosophy as an undergraduate at Yale (BA 1980), earned his JD from Harvard in 1985, and received an MA in economics from USC in 1994. His research approaches the law from the vantage points of public finance and feminist theory, among other perspectives.

Our tax system has a strong bias against two-earner, married families. This bias came to be because of a series of decisions made in the 1930s, 1940s, and 1950s, and hardly reexamined since. The bias cuts differently at different income levels. Among the poorest Americans, a bias against two-earner marriages is a bias against marriage itself. Thus it is no surprise, although I think it's a stunning disappointment, that one out of four American children live in single-parent, female-headed households, and that more than half of them are below the official poverty line. It's also not all that surprising that the traditional image of the family, in which the husband/father works full time outside the home and the wife/mother works full time inside it, continues to predominate among the very wealthiest Americans. Eighty percent of CEOs of Fortune 500 companies are married men with stay-at-home wives. Finally, the same bias creates stress in the vast middle classes, where married mothers face difficult choices between staying home full time—thereby sacrificing an important labor-market presence and harming themselves in the increasingly likely possibility of a later divorce—and working full time inside *and* outside the home, juggling two domains of work for little, if any, take-home dollars. All the while, men face little pressure to change their ways, and the workplace continues to favor a dominant model of full-time, full-commitment work.

That's the basic story of my book, *Taxing Women*—how a large and coercive instrument of state control, the tax system, was set up in one set of circumstances to favor one kind of family, and how it continues to exert pressures today under very different circumstances.

I'd like to view this basic story from different perspectives by telling four tales, with apologies to Chaucer: the Accountant's Tale, the Historian's Tale, the Economist's Tale, and the Social Theorist's Tale. I'll cut right to the bottom line and



begin with the most basic and down-to-earth perspective.

The Accountant's Tale

Let's start with some basic facts of life in America today. Almost all married men work, and almost all married men who do so work full time, well over 95 percent. They usually earn much more than their wives do when the wives also work. Conversely, about 40 percent of married mothers of young children stay home. In most single-earner families, it's the husband who works. A single-earner family where it is the wife who works is likely to be a lower-income family with an unemployed or unemployable husband. So, for various reasons, the man's salary is fixed as the primary one. It's not just because he earns more, but also because it's taken for granted that he works. Men's work comes first, and once we take that as a fixed fact of life—it doesn't have to be, but it is for most Americans—the following things start to happen.

Let's consider the situation of a husband and wife with two children. Let's say the man is earning $60,000, and the wife is offered a job paying $30,000. That roughly captures the ratio of working wives' salaries to their husbands'. On average, a working wife earns about two-thirds of what her husband earns, but to make it easy here we're saying she's offered a job paying $30,000. But she's not going to take that home. The first thing we do is factor in taxes, and taxes are going to cut her salary in half. She's going to lose about $15,000 to a combination of income tax, Social Security, and state and local taxes. The income tax starts at a high rate because of joint filing; this is something I'll talk about more in the Historian's Tale, but basically joint filing means that *her* first dollar is taxed at a rate dictated by *his* salary. So she doesn't have a zero bracket like he does when he entered the work force. Her very first dollar, in this particular example, is in the 28-percent income tax bracket. And over the range in which they are earning together, she'll enter into even higher brackets of 31–32 percent.

She also starts, on her very first dollar, paying Social Security taxes of about 7.65 percent out of her paycheck; her employer has to chip in an equal amount. Working wives are already benefited under the Social Security system by virtue of a stay-at-home spousal share, so she's paying a pure tax here with no benefit. When we add the 7.65 percent to 30 percent, and then add in state and local taxes, an increasingly significant phenomenon in America, it's pretty easy to get up to a 50 percent marginal tax rate.

Taxes are not, however, the only expenses that come out of her salary. If she goes to work, the family is going to have to do something about child care. The most common way of dealing with the situation of child care is to use some unpaid option—to take advantage of relatives or friends. But if you have to pay, you have to pay dearly. So let's say the family has to pay $200 per week to care for two children. (Surveys and statistics suggest that this is not an unrealistic figure. It's higher than the average, but the average numbers tend to be pulled down by unpaid options.) The sum of $200 per week adds up to roughly $10,000 per working year. The biggest benefit she could get back on her tax forms, in terms of a child-care credit, would be less than $1,000. Since she's unlikely to get even that, for a variety of reasons that I won't go into here, I've simplified the situation and left it out of the equation.

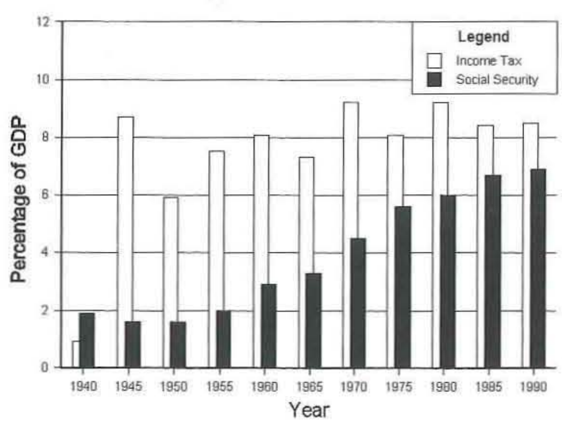
Child care is not the only additional expense the family will face. Two-earner couples face a myriad of costs over and above one-earner couples. They see expenses from the loss of the services that a stay-at-home wife would be providing—dry cleaning, housekeeping, restaurant meals, more expensive in-home food, commuting. If all these extra expenses average $100 a week—and that seems to be a conservative estimate from consumer surveys—that's another $5,000 per year with no tax break. If you've been doing the arithmetic, you can quickly see that the bottom line is zero. Her $30,000 job brings home nothing. This is not an unrealistic story. The average working wife sees two-thirds of her salary lost to taxes and work-related expenses, and some women actually lose money by working.

Now let's talk about the primary earner. In an example I work out in my book, I show how a $2,000 raise can more than match the $30,000 job offer for the wife. Of course, in this example, with that bottom line of zero, even a $1 raise is better. He might even be in a lower marginal tax bracket than his wife, if he has passed the Social Security ceiling of approximately $60,000. His additional work doesn't open up the need for child care or generate many, if any, of those additional work-related expenses. This incentive structure favors and rewards traditional one-earner families. If a woman wants to work, there are plenty of incentives not to be married or not to have children in the first place. Children provide an incentive for one person to stay at home—almost always the wife—and for the other person to work more. When we look across America, we see that pattern playing itself out.

To summarize more systematically, six factors underlie the Accountant's Tale: 1) joint filing; 2) the structure of Social Security; 3) nontaxation of the imputed income from self-supplied child care and other home production (i.e., if you stay at home, you're providing valuable services, but you're not paying any tax on the value of these benefits); 4) inadequate deductions for child care and other work-related expenses of the secondary-earning spouse; 5) the fringe benefits system, which rewards you through the tax system if you're a single-earner family and often forces the second earner to take fringe benefits the family doesn't need; and 6) state and local taxes that are parasitic on the federal tax structure. Now, I'm not going to turn this into a Lawyer's Tale; nobody wants to hear that. But I want to underscore an important idea—that the way things are is political and that the system was set up to entrench and reward one particular model of the family, to the exclusion of other possible models. The kinds of changes that I think are possible and that I'm advocating are in the direction of a more flexible, more just, and more neutral set of rules. To make this clear, I would like to discuss these six factors in their historical context.

The Historian's Tale

I'll deal with them chronologically, starting with Social Security. Social Security is a big tax. When it began in the 1930s Social Security was a bigger tax than the income tax. The income tax progressed from a small tax on the wealthy to a mass tax during World War II, with the brilliant invention of wage withholding. By 1945, the income tax had leaped up to a level of 9 percent of gross domestic product, where it has pretty much stuck. (When it gets too high, a Democrat usually gets thrown out of office and some Republican comes in and cuts taxes.) It's a different story with payroll taxes such as Social Security, which have shown a steady increase, so that by 1990 the payroll tax system accounted for 85 percent as much revenue as the income tax did. This may be a surprising fact, but more than 90 percent of Americans pay more in payroll taxes than they pay in income taxes. You don't see it; you don't fill out a form; it's not associated with the IRS; politicians don't talk about it. But when you combine the 7.65 percent that comes out of each employee's pocket with the equal share that comes out of the employer's—but which all economists agree is in effect paid by the worker—you see that Social Security is pretty much a flat 15.3 percent tax on wages, with no zero bracket or other adjustment for family size, etc. That is a steep tax.



After a big jump in 1945 to 9 percent of gross domestic product, the income tax has remained quite level. Social Security, however, has seen a steady rise, and in 1990 brought the government almost as much revenue as the income tax.

Social Security also has a very strong gender bias built into it because of decisions made in 1937 and 1939. Social Security was first put in place in 1935 by the Roosevelt administration. It was intended to be an actuarially funded system, so in the early years it was building up a reserve. But in 1936, things changed. John Maynard Keynes's *General Theory of Employment, Interest and Money* was published, which suggested that maybe it wasn't a good idea for a government to be building up a surplus in the Depression. The government decided to spend the reserve money, so a Social Security Advisory Commission was set up in 1937 to decide how to spend it. There were two candidates for extending benefits: one was to give some benefits to domestic and agricultural workers, who were largely African American; that idea didn't go very far. The second recommendation was to extend benefits to stay-at-home wives by creating a spousal share. This idea was widely popular. When the modification was first put into place, it was even explicitly sexist: wives who didn't work got a benefit.

But there was a little glitch that the reformers didn't think of—or did think of, actually. What about the working wife? This wife would get benefits anyway as a spouse. What were we going to do with her when she entered the work force? And the answer was: tax her anyway by not giving her any exemption level over the range in which her work did not generate any additional Social Security benefits. The commission noticed this in 1937, but they thought it was a *good* thing, for the explicit reason that married women ought not to be competing with single women. (In other words, they accepted that there was a segregated work force—there were male jobs and female jobs. They were simply trying to protect single women by keeping married women from working.) That might have been all right then, when Social Security was a flat two percent tax. But right now Social Security is at 15.3 percent, when we factor in the employer's share along with the employee's. It's a big tax, and working wives are getting little if any benefit from what they're paying into that

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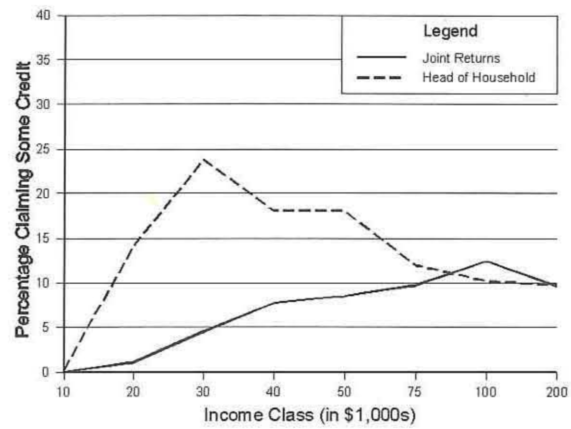
system. (There are possible exceptions, as when a secondary-earning spouse divorces before 10 years of marriage. Social Security is a complex matter. But these details don't change the basic fact that many women are paying a pure tax under Social Security.)

Joint filing under the income tax also has an interesting and complex history. It was instituted in 1948. Husbands and wives were defined as a single taxable unit. This, by itself, did not create a "marriage penalty"; during the period from 1948 to 1969, you could see your taxes go down on getting married but never go up. But joint filing created a big factor in the Accountant's Tale—the secondary-earner bias. By calling husbands and wives a single taxpayer unit, the government created an incentive to think of whose salary came first. Who got to take advantage of the zero bracket? Who was it who might *not* work? This is a perfectly appropriate way to think in accounting and economics. Once you think that way, it's overwhelmingly likely that the wife's work is going to come second, pushing her into a tax bracket dictated by her husband's salary. The secondary-earner bias is rarely talked about, but it's a big problem. Most countries that have a comprehensive tax system have now moved away from joint filing. Italy reverted from joint to separate filing in 1979, and England did so in 1990. We do have a possibility of filing separately even though married, but it's not the same thing as separate filing, and most married couples would pay more tax if they did this. More than 97 percent of married couples file jointly, and, as far as I can tell, the other 3 percent consists mainly of estranged but still married couples who won't sign the same form.

The third and fourth factors from the Accountant's Tale concern child-care deductions. A court decision in 1939 ruled that child-care expenses of two-earner couples were not business expenses; they were personal expenses, attributable to the fact of having children. This set a baseline in which we view child-care relief as exceptional or aberrational—as somehow subsidizing a personal decision to have children, rather than a legitimate work-related expense of two-earner families. Starting in 1954, the government did some very small and grudging things: they instituted a maximum $600 per family deduction, which stayed at $600 into the 1970s, not indexed for inflation. This just applied to couples earning less than $20,000 in 1954, a number that did go up a bit. The idea was to target some small relief to lower- and middle-income families, on the theory that rich wives shouldn't be working anyway. The law viewed working wives as some kind of exception to a general rule.

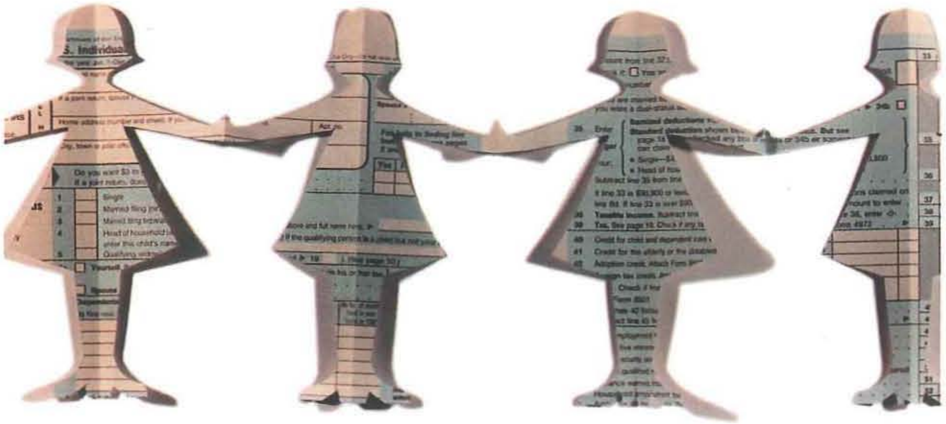
Today we have a child-care credit. It's more generous than the 1954 deduction, but the fact of the matter is that it is still grudging, and not very many people bother to take advantage of it. Among married couples earning less than $10,000, no one gets a child-care credit; couples earning $10,000 to $20,000 get an annual average of $250, or about $5 a week. By the time you're making $200,000 a year, the federal government might give you $500 back, or $10 a week, for



Not very many families even bother to claim the stingy child-care credit currently allowed them on their income tax. For joint filers (solid line), it makes sense only at higher incomes, while middle-income single parents (represented by the dashed "head of household" line) find it somewhat more worth their while.

child care. The numbers are a little better for single parents, but not much. You can see that an incredibly small percentage of married couples even bother to claim the credit (the dark line in the graph is the joint returns). That continues to be true until you get into pretty high income ranges.

The particular problem among lower-income families is that the child-care credit is nonrefundable. That means that you don't get any benefit from it unless you're paying positive income taxes. (A negative income tax means you get a net payment from the government.) Since the poorest one-third or so of American households do not pay positive income taxes, they get no benefit from a nonrefundable credit. Those households are paying taxes, but they're paying taxes in the form of losing the benefit of the earned-income tax credit. The people who set up this system were



aware of what they were doing. Legislators would stand up on the floor of Congress and say, in essence: "We don't want to help two-earner families; we don't want to help working wives; we don't think women should be working." Lately, in the 1980s and 1990s, people use code language about how important it is to have stay-at-home parents, but they are still opposing working wives.

The secondary-earner deduction also has an interesting history. As I mentioned earlier, a typical second earner enters the work force at a 50 percent tax rate. She doesn't have the benefit that a primary earner has of going through a range in which she's not paying positive taxes. An obvious thing to do would be to give her some deduction to account for various work-related expenses and to replicate the effect of having her own zero bracket. In 1981, the first great Reagan tax reform was put

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in place, which allowed a relatively small secondary-earner deduction: 10 percent of the lesser-earning spouse's salary up to $30,000, thus a maximum deduction of $3,000. That looks like it was a nod to help working women, but in 1981, there were also serious proposals for separate filing and other things that would have helped two-earner couples a lot more. This limited second-earner deduction was the cheapest option on the table, and they went with it. The end of the story comes five years later, when they repealed it.

Many of you may still remember the Tax Reform Act of 1986—it featured a quite radical simplification of the tax laws and a dramatic lowering of the tax rates. In the decades before that, the highest rate bracket was very high for the wealthiest Americans—for a brief while during World War II it was 94 percent. Since then we've had two great tax-reducing presidents. The first was John F. Kennedy, who lowered the top rate to 70 percent in 1963. It stayed there until 1981, when Reagan lowered it to 50 percent. Five years later, he lowered it again to 28 percent.

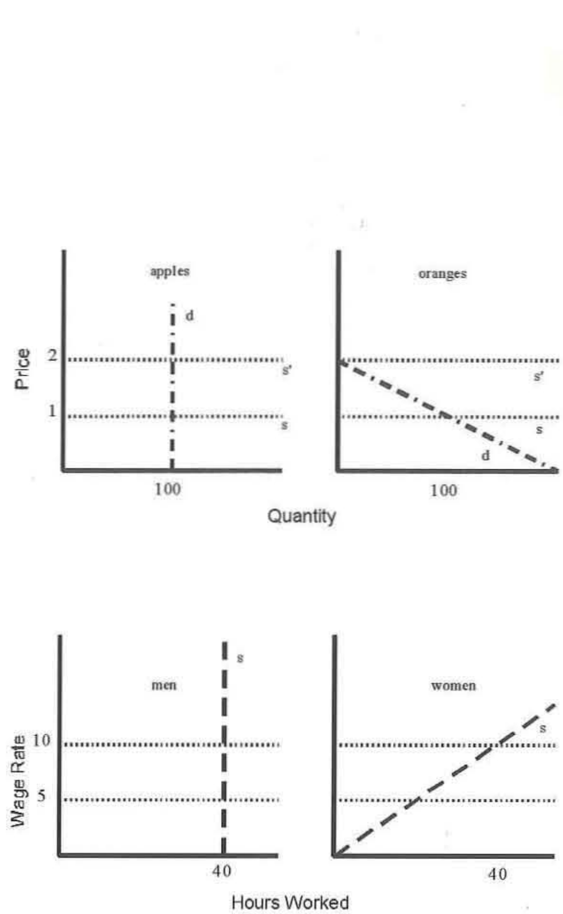
By 1986, a conservative idea had been floating around for many years, namely that women were working in order to pay taxes. Conservatives believed that the reason we were seeing more two-earner families was that taxes had increased so that the husband's salary alone was no longer sufficient to support the household, and the wife had to work to generate enough cash to pay the taxes. The conservatives thus thought that the way to get women back into the home was to lower taxes. Reagan, in his brief statement in signing the Tax Reform Act of 1986, singled out its incentives to get women to stay home as one of the principal advantages of the law. He said it would make it economic to raise children again.

This turned out to be exactly wrong. The conservatives had convinced themselves that women were working only in order to pay taxes. If, in fact, women want to work, the logic would run exactly in the opposite direction. High taxes deter work effort; hence, lowering taxes would increase married women's work. Guess which answer won? Women *want* to work. After the 1986 tax reduction, there was a 25 percent surge in married women entering the work force.

Bringing the Historian's Tale up to the present, conservatives now face the question: how can they lower taxes, which they always want to do, without helping married working women, which they never want to do? We learned in 1986 that lowering tax rates across the board was the wrong answer. What's the right answer? A per-child (not child-care) credit. In his 1996 campaign, Bob Dole came up with the witty slogan of "15-15-15"—a 15 percent across-the-board rate cut. Conservatives didn't want him to do that, because a general rate reduction, as in 1986, would help working wives. The *Contract with America*, written in 1994, called for a per-child credit instead of any general rate reduction; the Christian Coalition published a parallel tract, also supporting the idea. It was by far the most expensive element of tax reduction in the *Contract with America*, accounting for $162 billion out of a $300 billion total tax reduction—much more expensive than capital gains reduction or anything else. Bill Clinton signed onto this, and this is the proposal in the budget act—a per-child (not child-care) credit. [The Taxpayer Relief Act of 1997, signed into law in August, incorporated this change.]

There are two problems with a per-child credit from the point of view of taxing women. First of all, it's nonrefundable. Forty percent of American families will get no benefit from the per-child credit, and, of course, they're the poorest, neediest 40 percent. Second, it maintains the high tax rates facing working wives. It's a form of tax reduction that doesn't change the Accountant's Tale at all, except to give families more money in the first place, whether the wife works or not. This would presumably cut against her incentive to work, and if you look at the language of the *Contract with America*, you can see quite clearly that it's deliberate.

The history of tax in America, from at least the 1930s down to the present day, shows time and again the rules being set in a way rigged against working wives and mothers. The work force itself has changed, but tax hasn't.



If the demand for apples is inelastic (people will buy them no matter how high the tax) and the demand for oranges elastic, you get the demand curves shown at top right. When it comes to taxing the labor supply, men look like apple eaters and women like orange eaters (the line slopes the other way because these are supply curves).

The Economist's Tale

Now we get to the fun stuff. I'd like to sketch out some of the basics of the theory of optimal tax, originated by Frank Ramsey in 1927, and show how it applies to the problems of taxing women. I'm also looking ahead to the ultimate connection to the Social Theorist's Tale.

To learn about the idea of optimal tax, I invite you to imagine that you're on an island that has only two commodities—apples and oranges, each selling for $1. (Someone told me that at Caltech that should be Apples and IBMs, but I'm a lawyer; I'll stick with the fruit.) Because the market is perfectly competitive, an individual seller raising the price would be undersold; anybody selling for less would go bankrupt. In this simple story, let's imagine that 100 apples and 100 oranges are purchased.

Now the government comes onto the scene and decides that it needs $100. How is the government going to raise the $100? The easy answer is to put a 50 percent tax on both apples and oranges. But nothing is too easy in economics, because things change in the face of tax. First, the price of apples and oranges would each go up to $2 because the seller still needs to net $1. If he sells for $2, he will give 50 percent, or $1, to the government, keeping the $1 he needs, by definition, to break even. This price change means changes in the demand for apples and oranges. But what, exactly, happens next? Because we're in the Economist's Tale, the answer is: it depends. More specifically, it depends on the nature of the demand side.

Under this stylized example, let's assume that the demand for apples is what we call completely inelastic. Because people have to have an apple a day to keep the doctor away, they'll pay any price for that apple. So that means the 100 apples will still be purchased, even at the price of $2. On the other hand, let's say the demand for oranges is relatively elastic, or flexible in the face of changing prices. When the price goes up, people decide that oranges aren't worth it. If we insisted on taxing oranges, no one would buy them, and the market in oranges would shut down completely.

Economists view this as silly, or inefficient, and this is why Ramsey developed his theory of ideal taxation. Applying the optimal tax solution, you should only tax inelastically demanded goods. So, we should be taxing apples—and things like cigarettes, alcohol, and gasoline—and not oranges. Let's go back to the island example. If we imposed a 50 percent tax on apples alone and no tax at all on oranges, the government would still get its $100. Apple sellers wouldn't care because they would still be selling their 100 apples for a net, after-tax price of $1. But orange sellers and orange buyers would now be satisfied. We could repeal the silly and unproductive 50 percent tax on oranges.

Now you may be asking: What does this have to do with taxing women? It turns out that women are like orange eaters and men are like apple eaters. Men are inelastic suppliers of labor; that is, they work full time, all the time. They don't know what else to do. They work at least 40 hours a week; it doesn't matter what you pay them. Women, on the other hand, are very sensitive to the wage rate. This is what we learned in 1986, a fact that anybody who had been paying attention would have already known (but that anybody didn't include Ronald Reagan or the other conservative advocates of the Tax Reform

Act of 1986). When we effectively raised the take-home pay of women by lowering taxes, women worked more.

Michael Boskin, a conservative economist at Stanford University and the Hoover Institute, and chairman of President Bush's Council of Economic Advisers, coauthored a paper in 1983 that suggested taxing married men twice as much as married women. That's the optimal thing to do. Men are like apple eaters; we should tax them. Women are like orange eaters; we should leave them (relatively) alone. So that's the Economist's Tale.

Between the Economist's Tale and the Social Theorist's Tale lies an academic divide that I'd like to try to bridge here. It is especially noticeable in the legal academy, where I spend much of my time. On the one hand, the law and economics movement has been pursuing a wealth and utility maximizing project, drawing on all of the tools of modern economic theory, including finance, game theory, and welfare economics. On the other hand, many other scholars, operating out of a classical liberal, social contractarian, or communitarian perspective, have recoiled from what they see as the quasi-science of the utilitarian camp—or what they take as an obsession with markets and money, to the exclusion of other more important and fundamental values. The two broad camps generally fail, and sometimes even refuse to attempt, to communicate with each other. I take this to be an unfortunate state of affairs. Life lies in the middle of such academic divides. Real people care about money and markets, for one obvious thing, but there is also much that a social theory, not wholly utilitarian, can learn from social science and vice versa.

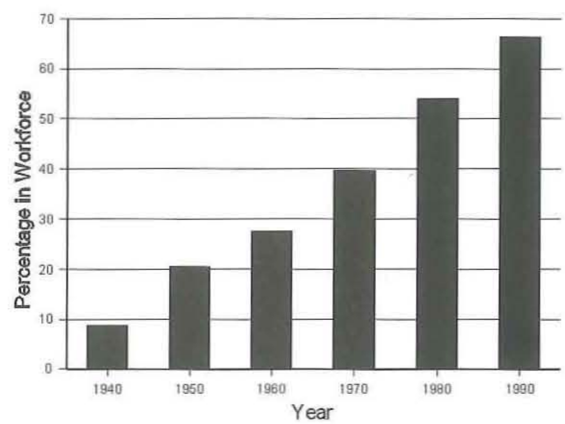
In the half century between 1940 and 1990, the percentage of married women who were working rose steadily from 8.6 percent to 64 percent.

Matters such as tax are first, foremost, and finally matters of politics. But we can no longer afford to dismiss politics as "mere politics," as if reason and logic can play no role in advising our communal political decisions. It's an unavoidable fact that we have only our common sense, our collective reason, to appeal to in deciding what is just or fair in matters such as tax. But there is no very good reason for our collective community not to look at the teachings of social science and to interpret them as it sees fit—all in the interest of a deeper and richer conception of what is fair or just.

It's pretty easy to see that we would not want simply to go down the route of optimal taxation—taxing only the apples. For example, on the commodity side, optimal taxation would suggest taxing life-sustaining drugs, such as insulin, at particularly high rates, and trivial commodities, such as candy bars, at low rates. But that would interfere with our settled intuitions of fairness and justice. On the labor-supply side, optimal income taxation might suggest finding ways to single out people with a relatively committed work ethic—recent immigrants perhaps—and tax them at high rates, while leaving lazy people more or less alone. We wouldn't want to do that either. But the Economist's Tale *is* relevant nonetheless, even if it is not decisive, and it is particularly relevant to gender justice in America today. The Economist's Tale showed us that women are conflicted; they face difficult choices. The Accountant's Tale told us that we have piled a tax burden on what was already an overstressed and overburdened group of people. And the Historian's Tale told us that we did it on purpose. There's something wrong there. With the Social Theorist's Tale, I come to what I consider the biggest payoff for work in tax. It doesn't necessarily have anything to do with tax, but rather with the broader ideals of fairness.

The Social Theorist's Tale

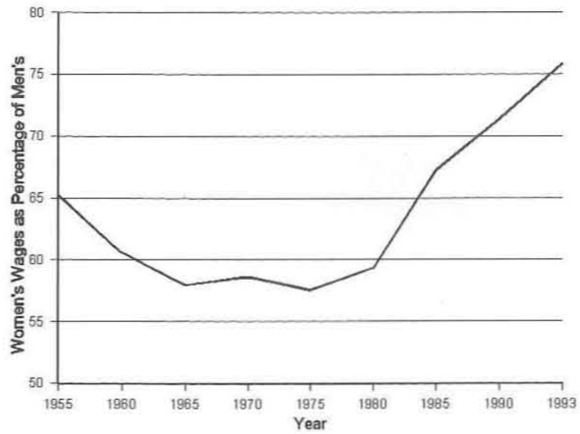
There are many objective measures of women's equality—such as labor-market participation rates and wage levels, which are improving—but there are also subjective indications of their distress. Women of all sorts, but particularly married mothers, appear to be unhappy. How can this be? How can the objective signs of success or equality coexist with subjective signs of despair? In 1940, 8.6 percent of married mothers with children under the age of six worked. By 1990, this was 64 percent—a pretty steady increase of about 10 percent per decade. That's an astonishing demo-



graphic change, and you would expect it to be accompanied by changing models of work or the family. Unfortunately, this didn't happen. Meanwhile, the gender wage gap, after sticking at 59 percent throughout the 1960s and 1970s, has dramatically declined since about 1980. The gender gap is gone altogether in some subsectors. We are now getting calls to repeal affirmative action. It looks to many as though we've arrived in the Promised Land.

But we know better than that because the Accountant's Tale, the Historian's Tale, and the Economist's Tale have raised objectively grounded doubts. We can support these doubts with an

The gender wage gap, most remarkable during the sixties and seventies, when women earned less than 60 percent of male salaries, now appears to be on its way out.



empathetic common sense that tells us that something is wrong when it comes to gender and justice in America today. So let's look a little more closely, and also more broadly, at labor markets in America.

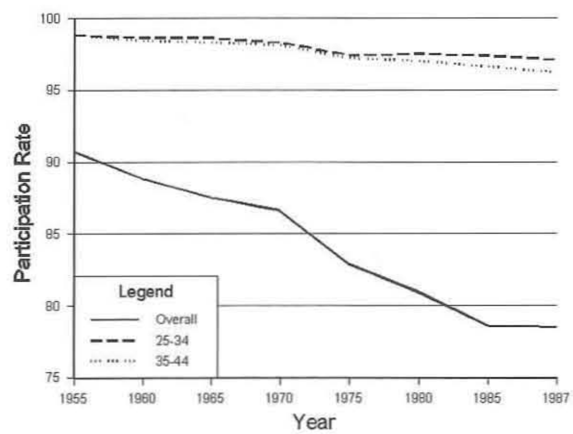
Because of that stunning demographic change involving married women working, we would expect either the workplace or male behavior to have changed. But we're not going to find either one of those trends. First, let's look at part-time work. A lot of people think that more married women are working part time. That's wrong. There are fewer married women working part time today than there were, as a percentage, in 1959. About 25 percent of women who work do so part time. This figure is often cited to suggest that part-time work is a helpful answer to the dilemmas facing married mothers today. It's not. In tracking the situation of women, the Census Bureau lumps them into four age categories: 16–19 (teenagers), 20–24 (often students), 25–54 (most women doing most things), and 55 and older. The 25–54 age group is the *least* likely to feature part-time workers. The overall average that makes up that 25 percent is fueled by older women and teenagers, so it's clear that part-time work hasn't offered much of a solution to the problems facing married mothers. Part-time work is usually low in pay, low in prestige, and unlikely to survive the Accountant's Tale's rigid calculus.

Across the board, there's some movement in part-time and flexible-time work, but it's more on the demand side of firms, rather than on the supply side of individual workers. It's motivated by firms that are looking to circumvent fringe-benefit laws, firms that want a more flexible work force that they can hire and fire in the event of business-cycle contractions and so forth. We can also pull out of the part-time labor numbers that percentage of people working part time who are doing so involuntarily. This turns out to be a very high percentage.

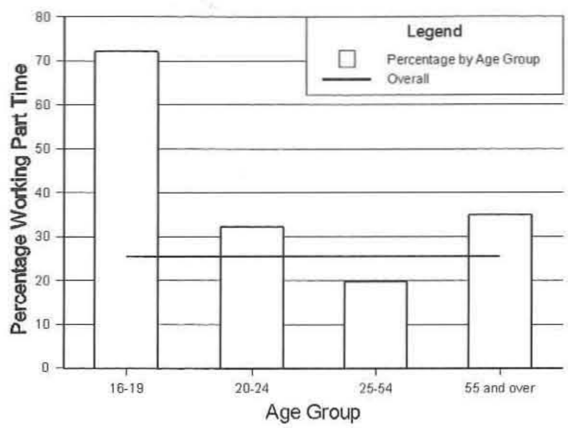
Now, what's been happening to the male side of the picture? Occasionally people say that part of the narrowing gender wage gap is due to changing male behavior, and they can point to some statistics to show this. In 1955, 91 percent of all married men were in the work force; by 1987, the number had dropped to about 78 percent. That's not as big a change as on the women's side, but it still looks like a significant shift. But there's reason to be suspicious that it is really much of a change at all. If we break that into the subcategories of men 25 to 34 and 35 to 44, men in their prime parenting years, we find that nothing much has happened. More than 97 percent of married men between 25 and 44 were in the work force in 1955, and by 1987 the number had dropped to about 96 percent. Why is it, then, that male labor force participation appears to be declining? The entire effect is driven by what is happening to men older than 55. They're retiring earlier and living longer; they're a bigger percentage of the population.

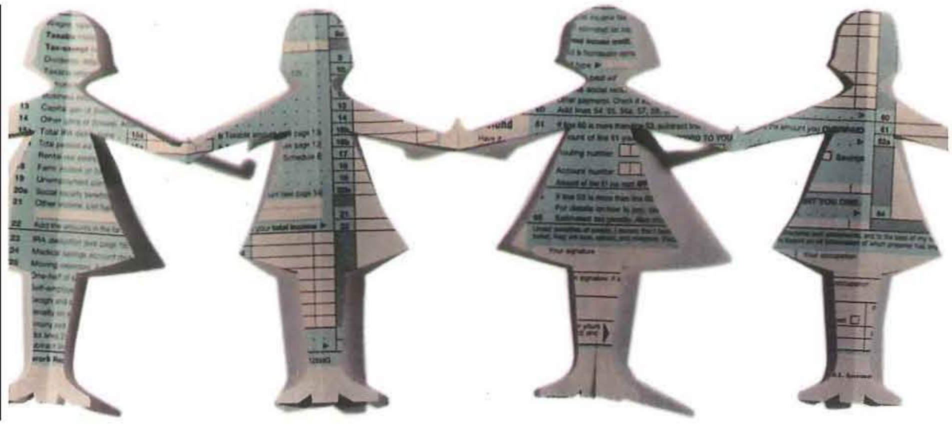
So, what *has* happened since 1940? It turns out that, although the workplace didn't change and men didn't change, women did. Women now face a choice between staying home full time or working full time, and those women who work are now working like men have always worked—full time and with full commitment. Since they haven't

Far right: Although men's rate of participation in the labor force appears to have declined sharply over the last 40 years (solid line), the percentage of men 25-44 working has consistently remained over 95 percent. The drop is due to the fact that men are retiring earlier and living longer.



Right: About 25 percent of working women work part time, but this figure is mainly driven by women under 25 and over 55. Part-time work has not offered a good option for women in their prime earning years.





been given good part-time opportunities, and since there's been relatively little change on the male side in regard to men helping out at home or working less than full time, women have started to act like men. A variety of statistics back this up. Like men, women are now marrying later; for example, over the last 20 years, the percentage of

If we had better tax provisions for child care, it might give more money to the important sector of our economy that cares for children, while giving women more choices.

women age 25 who are married has dropped from 67 to 33 percent. Women are having fewer children and are having them later in life. And working women are educating themselves more, signaling that they're serious about work. Women are also staying in their jobs longer.

This whole scenario could have been predicted from the biases I mentioned at the beginning. Remember, the basic story of taxing women is the bias against two-earner families. Among the poorer classes, that's a bias against marriage. This means more single parents and more single parents working full time. Among the wealthier classes, it's a bias for stay-at-home wives, while the men continue to work full time. And in the middle, it means stress and an all-or-nothing effect for women—stay home or work full time inside *and* outside the home. A small group of women is looking for flexible options, but they're not going to find them, by and large. They are going to have to work full time and with full commitment, too.

Conclusion: Hopes for Change

There is some good news. There are lots of relatively easy things we can do to fix the problems of taxing women. The first one is to return to separate filing under the income tax. We had separate filing in America before 1948, and, as I mentioned earlier, most countries that have a comprehensive tax system have now moved to separate filing. This would treat husbands and wives as individuals, and would mean that a secondary-earning wife would have her own zero bracket; she would not be in an income tax bracket dictated by her husband's salary. Another feature of it is that it picks up the optimal tax solution, because it is, in effect, an increase in the tax on men and a decrease in the tax on women. It also gives an inducement and encouragement for men to cut back on their labor-market participation and provides an incentive to families and firms to think of more creative part-time and flexible-time work.

Another fairly easy thing to do is to allow a secondary-earner exemption under Social Security. It's a pure tax on working wives designed to subsidize single earners and other families. It's pretty easy to give a secondary-earner exemption, which would give two-earner families money that they could use for work-related expenses, such as child care.

That's yet another easy thing to do: better child-care provisions. There are many reasons to consider child care a legitimate business expense. It's occasioned by the decision of the family to have two earners. It's the work and not the kids that is the proximate cause of the expense. If we had better tax provisions for child care, it might give more money to the important sector of our economy that cares for children, while giving women more choices.

Then there's fringe-benefit reform, which looks a lot like the secondary-earner exemption. Lots of families are forced to take duplicate fringe benefits that have already been extended to the whole family under the primary earner's salary. To keep things neutral and fair, we should let women opt out of these benefits that they simply don't need, and take cash instead. This should be tax-free cash, since fringe benefits are tax free. And we should simply get rid altogether of marriage penalties on lower-income families.

All of these proposals are relatively easy to implement, and they all have precedents in what other countries have done or what we ourselves have done in times past. They can be justified on the basis of social fairness and neutrality. And they are all supported by the "utilitarian" teachings of social science. But we need both the will and the understanding in order to do them. I hope that my work helps, at least with the latter. □

Republicans in Congress, partly inspired by McCaffery's book, have recently proposed a Marriage-Tax Elimination Act that would give married couples the option of filing separately.