

Economic consequences of divorce: the role of spousal support

Some Evidence From French Divorce Court Decisions

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The motivation (1/2)

Large empirical literature on the economic consequences of divorce

- Divorced people experience a deterioration of their living standard
- Women more at risk than men (deeper deterioration, higher poverty risk)
 - gender differences mitigated thanks to welfare and private transfers
 - ✓ a lot of studies on the impact of child support
 - ✓ ... but few studies on spousal support

French situation:

- Relatively few statistics on the post split income/well being changes, mainly based on the exploitation of household cross-section/ panel surveys (ECHP; SILC..)
- Even less information on the impact of spousal support on the post split income changes

⇒ Aim of this study is twofold

- To provide some evidence for France about the economic consequences of divorce by using original data : French divorce court decisions
- To enrich the gender approach of the economic consequences of divorce by focusing on the role of spousal support in reducing the income gap between men and women

The motivation (2/2)

The context of this study

- Funded by ANR (ANR-COMPRES)
- Made part of a larger research, mixing economists and jurists (legal scholars and legal practitioners), about the theoretical and empirical grounds of spousal support
- ... a work in progress

French context

Legal context

Loi Carbonnier(1975)

- No fault divorce
- Spousal support (only for married people), which goal is to compensate a disparity of living conditions among ex spouses (art. 270 Civil Code)
- Criteria provided by law to set a spousal support (art. 271, civil code):
 - The potential beneficiary 's current and future needs
 - The potential debtor' s current and future earnings
 - Marriage duration, age/ health status/work status of the spouses
 - Consequences of career choices made by the spouses on their pension rights, their future professional career
 - Consequences of liquidation of marital property

Few statistics

- Increase of the divorce rate since the 1970's ; 2,1 divorces/1000 inhab. (2010)
- Spousal support is
 - Requested in about 25% of the divorce
 - Awarded in 12,5% of the divorces
 - Mainly awarded to women and as lump-sum

Data

▪ **1 996 representative decisions of French Courts of Appeal** pronounced in 2012 and involving a post divorce spousal support issue.

- Spousal support awarded in 70% of the cases, mainly as a lump sum (93%) and in favor of wives (97%)
- Information about divorcing spouses and on the divorce proceeding

• **A sample with 2 specificities**

- A sample limited to only married couple, for whom a spousal support issue is requested
- A sample limited to only cases where the decision of the judge of first instance is contested by one or the two parties

⇒ a sample older and more involved in a fault divorce proceeding (comparatively to the population of the divorced couples in first instance)

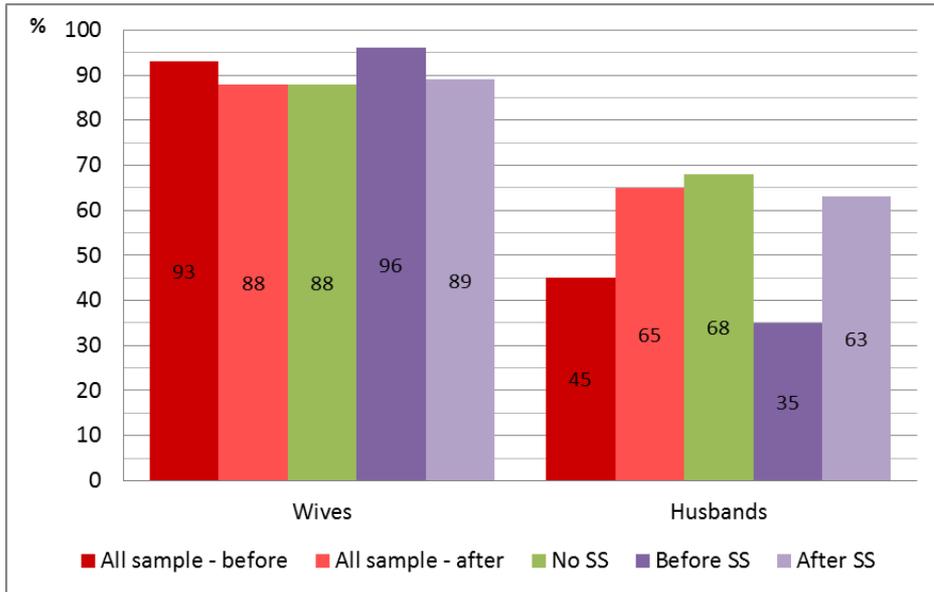
⇒ a sample where the husbands are richer and the dual earner couples are fewer (comparatively to French couples)

Methodology

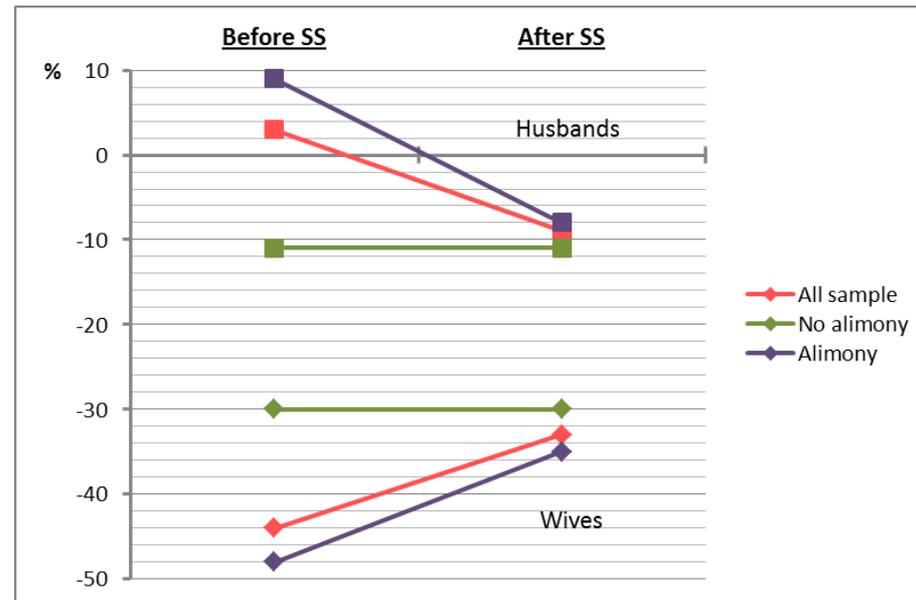
- **Incomes reported by the spouses**, except the family benefits related to children
- **Adjusted incomes** to take into account the size of the household
 - adult child= 0,5; minor child=0,3; if joint custody=+0,3 for each spouse;
 - no repartnership
- **Spousal support as lump-sum** (92% of the cases) converted into annuities (lump-sum/96)
- **Measure of the « net » post split income** : after deducted/added potential child support and spousal support awarded by the judge
 - results partially comparable with other studies based on survey data
 - ✓ survey data : risk of overestimation of the living standard of men (because child/spousal support are not deducted; joint custody is badly taken into account)
 - ✓ Our data : risk of overestimation the living standard of women (because of the non compliance of child support/spousal support)

The role of spousal support in reducing income gender inequalities (1/2)

Percentage of individuals with income decrease

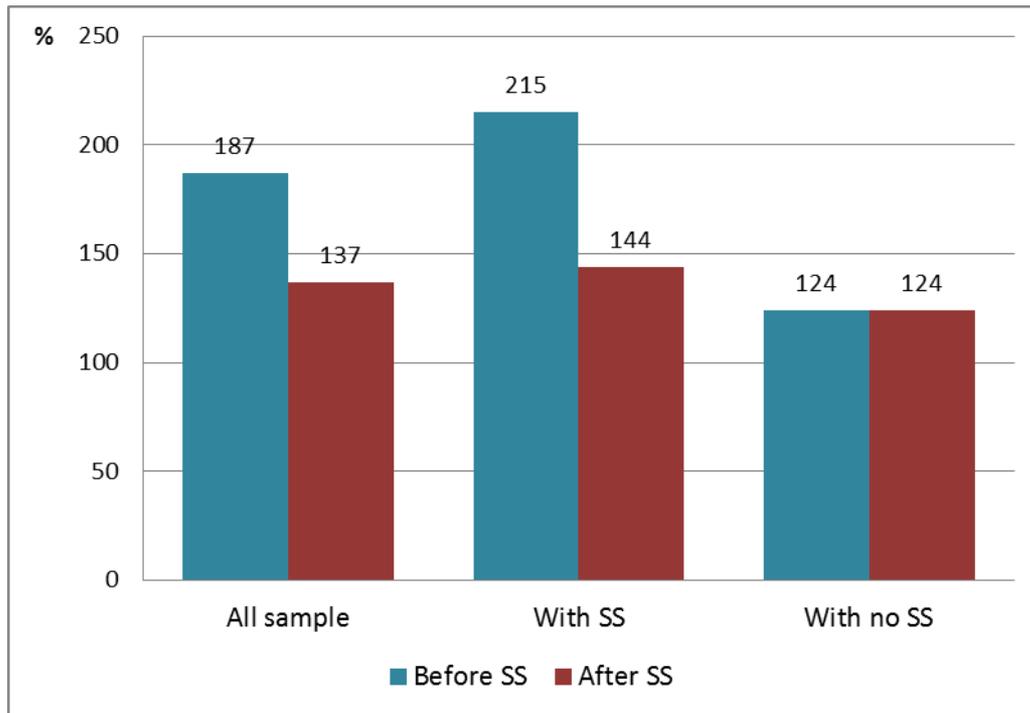


Median percentage income change



The role of spousal support in reducing income gender inequalities (2/2)

Median income gap between husbands and wives (before and after SS added/deducted)



Median monthly SS amount	312€
Median ratio in wife's income	
all	22
Husband's income is 101-150% of wife's	19
Husband's income is 151-200% of wife's	21
Husband's income is >200 % of wife's	27

The determinants of the spousal support amount (1/3)

- **The judge's decision : a sequential decision**

- 1) Is the spouse who requests a SS eligible ?
- 2) What is the amount of the SS ?

- **Two decisions partly impacted by the same factors**

- **The dependent variable (amount): left censored**, the zero values not due to data censoring but to the judge's decision

- Tobit model estimated with two steps:

- a first selection equation (probit model): «prob. of awarding a SS »
- a second outcome equation (regression model): « the amount of SS »

- **sample: limited to only wives who request a SS (N= 1877)**

The determinants of the spousal support amount (2/3)

• Variables included in the analysis

Variables mentioned in civil code

- **income gap between the spouses and asset of the two spouses; needs of the wife ;marriage duration; fact that the divorce was granted against the wife; husband's resources; professional career of the wife; wife' s pension right; health status of the wife; wife's qualification**

Variables not mentioned in civil code but should have an impact

- **number of the couple's children; type of marriage contract ; judge is sceptical about the incomes reported by the husband; repartnership of the wife;**
- **damages claim by the wife; parties' offer; spousal support fixed during the legal proceeding; child support amount; form of the spousal support**

Variables not mentioned in civil code and shouldn't have an impact

- **gender of the judge; the localization of the appeal court**

The determinants of the spousal support amount (3/3)

•Results of the outcome equation (QLIM Procedure)

variables	<i>Amount of spousal support</i>
Absolute Income gap between the spouses	+
Separation of marital property	+
Doubts about the incomes reported by the husband	+
Average parties' offer	+
Spousal support set during the divorce proceeding	+
Child support amount set by the judge	+

The determinants of the spousal support amount

•Results of the outcome equation (QLIM Procedure)

variables	<i>Amount of spousal support</i>
Income gap between the spouses	+
Separation of marital property	+
Doubts about the incomes reported by the husband	+
Average parties' offer	+
Spousal support set during the divorce proceeding	+
Child support amount set by the judge	+
Wife with legal aid	-
No child	-

The determinants of the spousal support amount

•Results of the outcome equation (QLIM Procedure)

variables	<i>Amount of spousal support</i>
Income gap between the spouses	+
Separation of marital property	+
Doubts about the incomes reported by the husband	+
Average parties' offer	+
Spousal support set during the divorce proceeding	+
Child support amount set by the judge	+
Wife with legal aid	-
No child	-
Spousal support form	ns
Repartnership of the wife	ns
The structure of the couple's asset	ns

The determinants of the spousal support amount

•Results of the outcome equation (QLIM Procedure)

variables	<i>Amount of spousal support</i>
Income gap between the spouses	+
Separation of marital property	+
Doubts about the incomes reported by the husband	+
Average parties' offer	+
Spousal support set during the divorce proceeding	+
Child support amount set by the judge	+
Wife with legal aid	-
No child	-
Spousal support form	ns
Repartnership of the wife	ns
The structure of the asset	ns
Gender of the judge	ns
Paris area	+

Conclusion

- **the spousal support contributes to reduce the post split gender inequalities**
 - What is the extent of this redistributive impact on the « macro » level ?
 - For which wives is it redistributive ?
 - ⇒ to enlarge the analysis with a larger sample of all the divorced couples (first instance court decisions)

- **the redistributive impact of spousal support depends on the magnitude of the amount,**
 - how do the judges take their decision ? What are their implicit social justice criteria ?
 - ⇒ to go deeper into the understanding of the judge's behaviour when they decide to award a spousal support and fix the amount.