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The Case Against Alimony

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Before I begin, let me state outright that it would be better to see alimony abolished outright and not some pseudo-equality effort involving equal numbers, for the simple reason that if a woman can withdraw her labour effect from a relationship at any given time with no penalty, then the same should go for the nearest man, as if the roles were reversed you can be sure that this double standard would not be acceptable.

Permanent and Periodic Alimony are monthly payments given from one ex spouse to the other in an attempt to equalize lifestyle, this is no different from socialism and in theory it can continue forever or until a significant change takes place. This is a practice which is sanctioned in numerous States. Rehabilitative Alimony is more frequently practiced and its purpose is to assist an ex spouse in acquiring a marketable skill so that they can become self sufficient. The characteristics of this form of Alimony are that it is limited in duration to typically 2 years. This essay will primarily focus on the rules and processes followed in the State of Florida dealing with Alimony, and advocate reasons why Alimony in general is illegal and should be abolished.

When a divorce reaches a final judgment, the court must distribute in an equitable manner the accumulated assets that the couple has acquired. These assets in effect are the financial “fruit” that the family works hard to acquire to improve the quality of life, and to achieve their financial goals, examples of these assets are; cars, boats, homes, furniture, savings, pensions, cash & stocks, etc. Thus one could conclude that these assets were the financial reward that both party’s worked for during the marriage.

It would be nice and simple if it would end there, however the state of Florida and other states, permit the courts to also award Permanent and Periodic Alimony, which is based on the following four criteria:

- 1.Length of Marriage, the marriage must be “of duration” to be awarded Alimony.
- 2.Significant difference in income producing capabilities of the two spouses.
- 3.Spouse needs additional support to maintain a lifestyle accustomed to.
- 4.Ability of the other spouse to pay.

This form of Alimony is permanent; however it can be increased or decreased if either ex spouse can demonstrate a significant change, these changes can be; Retirement, Permanent Change in Earnings, Increased need for support, etc.

To illustrate the inequity; if the ex spouse earnings increase over 20% the other spouse

can get the court to increase her Alimony. In addition there are no financial controls or oversight placed on the spouse that receives the alimony. By illustration, if she decides to spend lavishly and go beyond her means, she can ask the court for more alimony.

The arguments against Alimony

Alimony should be banned on two grounds:

Legal (violates the US & Florida Constitutions) Alimony is involuntary servitude and is more often awarded to women.

a.US Constitution, Amendment XIII - Slavery Abolished. Ratified 12/6/1865. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

b.Florida Constitution, Article 1, Section 2 Basic rights.--All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property; except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law. No person shall be deprived of any right because of race, religion, national origin, or physical disability.

Moral and Social reasons:

a.Alimony is forced work under the threat of prison and exists at the nearest man's expense.

Alimony is involuntary servitude.

Alimony is forced labor for the benefit of another, and also obligations without rights or goods or services.

Alimony assessed by courts, on the wife's behalf and taken against a man's wages for his work performed, fits ALL of the criteria of INVOLUNTARY SERVITUDE, under Title 18, USC., Sec.1584 and PEONAGE, under Title 18, USC., Sec. 1581 Hence: the concept of Alimony is illegal and violates anti-slavery laws in America.

From Title 18 USC Sec 1584

Peonage: Notwithstanding its early acknowledgement in the Slaughter-House Cases that peonage was comprehended within the slavery and involuntary servitude proscribed by the Thirteenth Amendment,²⁵ the Court has had frequent occasion to determine whether state legislation or the conduct of individuals has contributed to reestablishment of that

prohibited status. Defined as a condition of enforced servitude by which the servitor is compelled to labor against his will in liquidation of some debt or obligation, either real or

pretended, peonage was found to have been unconstitutionally sanctioned by an Alabama statute, directed at defaulting sharecroppers, which imposed a criminal liability and subjected to imprisonment farm workers or tenants who abandoned their employment, breached their contracts, and exercised their legal right to enter into employment of a similar nature with another person.

The clear purpose of such a statute was declared to be the coercion of payment, by means of criminal proceedings, of a purely civil liability arising from breach of contract.²⁶ Several years later, in *Bailey v. Alabama*,²⁷ the Court voided another Alabama statute which made the refusal without just cause to perform the labor called for in a written contract of employment, or to refund the money or pay for the property advanced thereunder, prima facie evidence of an intent to defraud and punishable as a criminal offense, and which was enforced subject to a local rule of evidence which prevented the accused, for the purpose of rebutting the statutory presumption, from testifying as to his "uncommunicated motives, purpose, or intention."

In as much as a state "may not compel one man to labor for another in payment of a debt by punishing him as a criminal if he does not perform the service or pay the debt," the Court refused to permit it "to accomplish the same result [indirectly] by creating a statutory presumption which, upon proof of no other fact, exposes him to conviction."²⁸ Pursuant to its Sec. 2 enforcement powers, Congress enacted a statute by which it abolished peonage and prohibited anyone from holding, arresting, or returning, or causing or aiding in the arresting or returning, of a person to peonage.³²

The Court looked to the meaning of the Thirteenth Amendment in interpreting two enforcement statutes, one prohibiting conspiracy to interfere with exercise or enjoyment of constitutional rights,³³ the other prohibiting the holding of a person in a condition of involuntary servitude.³⁴ For purposes of prosecution under these authorities, the Court held, "the term 'involuntary servitude' necessarily means a condition of servitude in which the victim is forced to work for the defendant by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process."³⁵

Reference: The U.S. Constitution:

Amendment XIII - Slavery Abolished. Ratified 12/6/1865. 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

Thus the only way that Alimony could therefore be legally justified is as punishment!
But, punishment for what? What is the crime? The only event that can trigger Alimony is

Divorce. Thus it would appear that Divorce is a crime punishable by Alimony. Yet Divorce is not a criminal matter it is a civil action, thus the dilemma and the basis for a constitutional challenge.

The International Labour Organization's Forced Labour Convention of 1930 defines forced labour as "all work or service, which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."

From the Florida Constitution, Article 1, Section 2 SECTION 2. Basic rights.--All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property; except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law. No person shall be deprived of any right because of race, religion, national origin, or physical disability.

From the Florida Civil Rights Act ss.760.01 – 760.11 760.01 Purposes; construction; title.-- (1) Sections 760.01-760.11 and 509.092 shall be cited as the "Florida Civil Rights Act of 1992." (2) The general purposes of the Florida Civil Rights Act of 1992 are to secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individuals within the state. (3) The Florida Civil Rights Act of 1992 shall be construed according to the fair import of its terms and shall be liberally construed to further the general purposes stated in this section and the special purposes of the particular provision involved.

Conclusion #1

Alimony which was court mandated after a divorce violates the United States Constitution Amendment XIII.

Alimony and Common Law Duty

The Supreme Court of the State of Florida states in Gilbert v. Gilbert, 447 So 2d 299 (Fla. 2d DCA 1984) "Alimony evolved from the common law duty of a husband to support his wife. The duty to support survives the dissolution of marriage for equitable and policy reasons." Hence Alimony is a permanent duty of the Husband regardless of the legal status of the marriage. Alimony based on the "common law" right of a wife to be supported by her husband, but there is no equal law for a husband to be supported by his wife. This interpretation by the Florida Supreme Court is an explicit declaration of sexual discrimination.

Men should not consent to being economically marginalized. Alimony then, is a marriage

tax usually for men only; a subsidy for women only, if you will. In an age of "equality" and "partnerships" it does not deserve to exist. Otherwise, in the eyes of the law, Men will always be working to economically marginalize themselves by being responsible, in short: Men should not be punished for being responsible.

The State assigns it's obligations to its citizens on the former spouse:

The Supreme Court of the State of Florida again states in Killian v. Lawson, 387 So. 2d 960 (Fla. 1980); Brackin v. Brackin, 182 So. 2d 1 (Fla. 1966), "The purpose of Alimony is to prevent a dependent party from becoming a public charge or an object of charity." It is incredible that Florida can assign it's responsibilities that it has toward one of its residents and require a former spouse to assume those responsibilities. By this ruling Florida has also transferred Federal responsibilities to the spouse. This violates the basic obligation of Government's responsibilities to its citizens which is broadly spelled out in The U.S. Constitution Article I, Section 1, Clause 1 which is reproduced as follows:

Reference The US Constitution: Article I. Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Clause 1: The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

Comparison between Alimony(Support for an ex spouse) and Welfare (Government support for indigent citizens).

Alimony/Welfare:

Can Amount Change due to ability to pay Yes

Can Amount Change due to greater need Yes

Are there incentives to become self sufficient No

Marital Debt:

Alimony is supposed to pay the "marital debt" that women are "owed" he's forced to pay and support a woman who does nothing for him, and if he fails to pay, he risks prison and contempt of court. The only official law remaining in the justice system where imprisonment happens for non-payment of "debt" Except, that this is a "debt" which the man had never started. Fred Hayward once wrote "A wife's control over her husband's body is so extreme that we Invented "alimony." (Alimony is the requirement that a man's body continue to serve the needs of the woman even after their marital contract has officially ended and she no longer has an expectation, let alone a requirement, to lift a finger for him for the rest of her life.)"

For a Spouse to claim she compromised her career because she chose to parent her kids full time is a choice she made and should not have it both ways. All benefits that she enjoyed and accrued during the marriage are equally distributed by the Court at dissolution; this would include all property, investments, cash, etc. In this way the spouse that compromised her career is repaid in 3 ways;

1: All the economic benefits acquired during the marriage are distributed, and she receives half of what the husband acquired during the marriage.

2: The Husband has supported her during the marriage in a manner that was comfortable to her and she did not have to go outside the home to earn this, this was a benefit to her.

3: In many cases the wife chooses to stay home and does not want to return to a high pressured work world, thus she accomplishes her objective during the marriage and thus must accept the consequences.

The reality of the situation is that the ex-wife becomes little better than a extortionist, living in the family home in a good life style. Whereas the ex-husband has to down size his life style to meet the Alimony obligations. The crucial mistake in the concept of Alimony is thinking that a woman staying at home to take care of the children is the only one making a sacrifice. If her leaving her career is to be considered a sacrifice, then his evaporating options (having no choice but to work full time for the time his wife is home) and his added distance from the family must be considered an equal sacrifice.

To be honestly brief, the amount and duration of alimony that a woman receives after divorce is determined by only two factors: the net worth of her ex-husband ("the style to which she has become accustomed"), and her inability to find a job that will support her in that style. basically, the less promising her career before marriage, the longer she will collect afterward.

US Constitution Article XIV.
Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

From the Florida Constitution Article 1, SECTION 11. Imprisonment for debt.--No person shall be imprisoned for debt, except in cases of fraud. From the Florida Constitution Article 1, 1SECTION 17. Excessive punishments.--Excessive fines, cruel and unusual punishment, attainder, forfeiture of estate, indefinite imprisonment, and unreasonable detention of witnesses are forbidden. The death penalty is an authorized punishment for capital crimes designated by the Legislature. The prohibition against cruel

or unusual punishment, and the prohibition against cruel and unusual punishment, shall be construed in conformity with decisions of the United States Supreme Court which interpret the prohibition against cruel and unusual punishment provided in the Eighth Amendment to the United States Constitution. Any method of execution shall be allowed, unless prohibited by the United States Constitution. Methods of execution may be designated by the Legislature, and a change in any method of execution may be applied retroactively. A sentence of death shall not be reduced on the basis that a method of execution is invalid. In any case in which an execution method is declared invalid, the death sentence shall remain in force until the sentence can be lawfully executed by any valid method. This section shall apply retroactively.

History.--Am. H.J.R. 3505, 1998; adopted 1998. 1Note.--The changes made by 1998 Constitutional Amendment No. 2, adopted in November 1998 and which are reflected in this section were held unconstitutional by the Florida Supreme Court. *Armstrong v. Harris*, 773 So.2d 7 (Fla. 2000). In accordance with the final judgment in *Armstrong v. Harris*, No. 98-5826 (Fla. 2nd Cir. Ct. Feb. 2, 2001), s. 17, Art. I, State Constitution, as it appeared prior to November 3, 1998, is the law that is in full force and effect. Prior to November 3, 1998, s. 17 read as follows: SECTION 17. Excessive punishments.-- Excessive fines, cruel or unusual punishment, attainder, forfeiture of estate, indefinite imprisonment, and unreasonable detention of witnesses are forbidden.

Justification for the abolition of Alimony:

Equality of the sexes which is an established doctrine in this country and has been the Law of the Land since 1865. Thus there is no justification for Alimony.

Alimony undermines and discourages the willpower to become self-sufficient and self-reliant, such a thing is hardly good for a grown adult and society. Recent changes in our welfare system are clearly and specifically focused on becoming self sufficient. Consider that Alimony is almost entirely designed to protect women's interests at the nearest man's expense. A woman who "sacrifices" her career or helps him gain a degree to support her is entitled to alimony, for example, but a man who marries a woman and supports her for 20 years gets no compensation. This de-humanizes the nearest man to be little better than a walking wallet. The question here is, why is acceptable for the nearest woman to own her life and labour while the nearest man does not?

It is an out dated concept that does not apply in today's society, should a spouse need training to become self sufficient a rehabilitative program should be crafted with State participation (the state should provide the same benefits and services it would normally afford to it's residents that were unemployed) this should be enough to get them started.

It can serve as an incentive to break up a marriage; this is completely contrary to our social objectives, it's unacceptable for any state to provide economic incentives for divorce, and economically marginalize a spouse in the process.

Alimony is out-dated and incompatible with the idea of autonomous responsible

individuals; it is not compatible with the concept of marriage as an partnership (since alimony is one way) or contract between equals. How is it acceptable that one set of obligations remain indefinitely when the other (whatever they may be) has ended? Since women are not bound to the same agreements after a divorce, the same should go for the nearest man as well. If a man is to be forced to do unpaid work for the nearest woman, then it should be a two way thing.

Lastly, consider a man who marries down and financially supports a woman which improves her life immensely. To use the sacrifice argument, she should be forced to compensate him on divorce for the “the lifestyle she was accustomed to” that he provided at his expense.

To finish, I leave you with this quote from E. Belfort Bax. It was written near the start Of the 19th century, but little has changed:

"A wife is now at full liberty to leave her husband, while she retains her right to get her husband sent to gaol if he refuses to maintain her--to put the matter shortly, the law imposes upon the wife no legally enforceable duties what-ever towards her husband. The one thing which it will enforce with iron vigour is the wife's right of maintenance against her husband. In the case of a man of the well-to-do classes, the man's property is confiscated by the law in favour of his wife. In the case of a working man the law compels her husband to do corvee [i.e. unpaid work] for her, as the the feudal serf had to do for his lord. The wife, on the other hand, however wealthy, is not compelled to give a farthing towards the support of her husband...."