

Contemporary Issues on Matrimonial Property

Edited by:
Zuhairah Ariff Abd Ghadas
Norliah Ibrahim

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CHAPTER 6

HUMAN CAPITAL AS MATRIMONIAL PROPERTY

Norliah Ibrahim & Najibah Mohd. Zin

6.0 INTRODUCTION

In many instances of marriage breakdown the most valuable economic asset is the earning capacity of one or both of them. In fact it has been a subject for discussion in several jurisdictions whether such earning power constitutes a form of “property” divisible between husband and wife on divorce.¹

The question of human capital and whether it is property within the context of marriage and divorce has been a “hot” topic since the early seventies.² The issue centers on whether enhancements to human capital or earning capacity, which are often the major assets acquired

¹ Kevin J. Gray, *Reallocation of property on divorce*, p. 169. According to him in some jurisdictions, factors related to earning capacity are merely regarded as relevant considerations in the equitable distribution of other property.

² Joyce Davis, “Enhanced earning capacity/human capital: the reluctance to call it property,” *Women’s Rights Law Reporter*, (1996), vol. 17, p. 109.