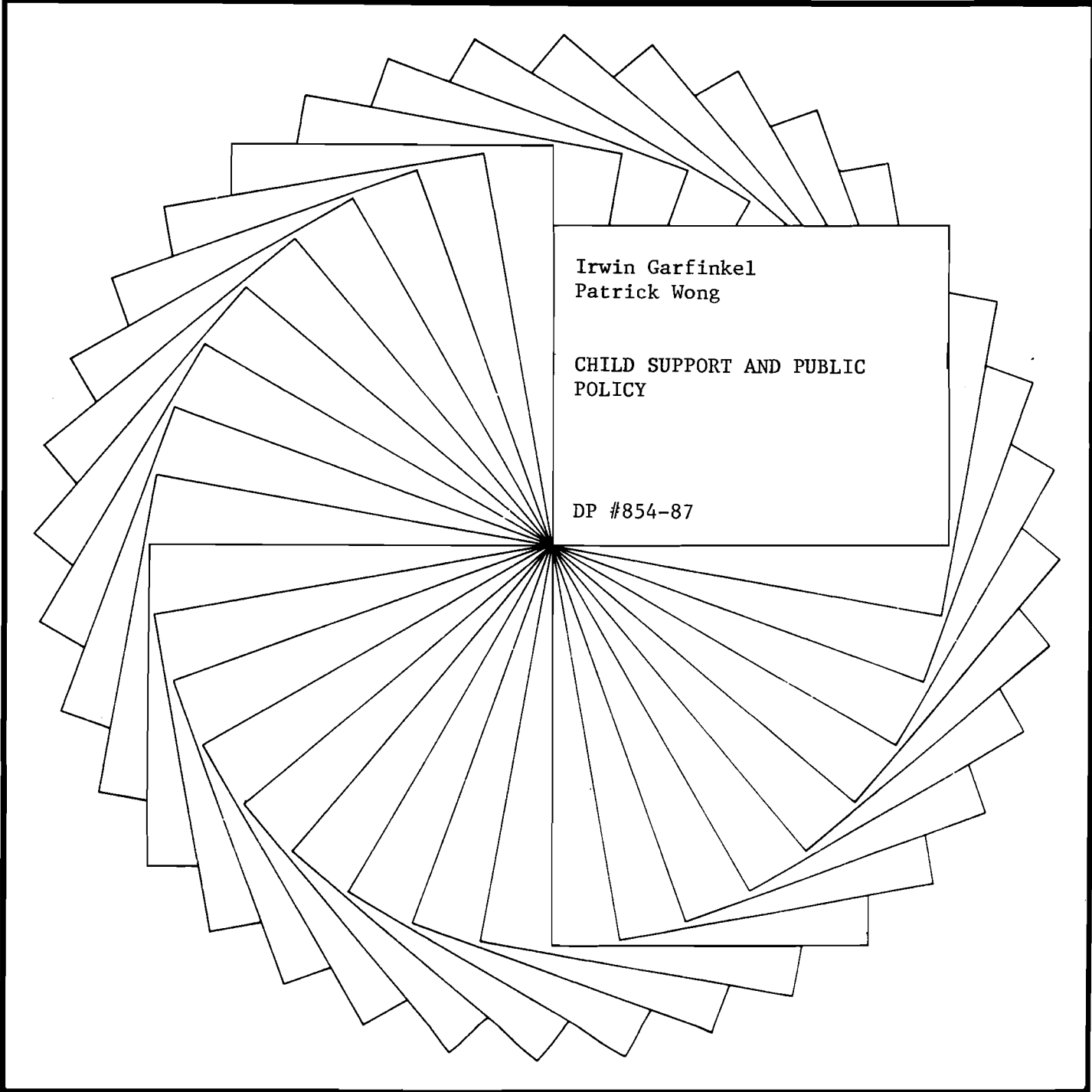




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CHILD SUPPORT AND PUBLIC
POLICY

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Abstract

This paper analyzes the evolution of child support systems in the United States and in other OECD countries. It examines the public enforcement of private support obligations for three issues: the establishing of the child support award, the determination of the amount due, and the collection of payments. The United States is found to be moving away from judicial discretion towards the routinization associated with taxation and social insurance programs. It is also moving away from public benefits as a substitute for both the earnings of the custodial parent and private child support payments--toward benefits as a supplement to both.

A comparison with other OECD countries shows that overall trends are similar though uneven. In some areas one nation has moved faster or slower than the others. Yet all appear to be moving toward the tax/social insurance model as the size of the problem--single parents with children who are not supported by their noncustodial parents--grows.

The limits of both private and public child support in reducing poverty and welfare dependence in the United States are then examined. Private child support alone can solve no more than one-quarter of those problems. Even in conjunction with a public supplement, child support alone will leave at least half the problems of poverty and welfare dependence unsolved. A half cure, however, is better than no cure.

The paper then presents arguments on both sides for a number of child support issues: whether the state should be involved in determining paternity; how the amount of an award should be determined and updated;

how its collection should be enforced; whether benefits should be assured; and whether programs should serve all single parents or only those dependent upon government assistance.

Child Support and Public Policy

I. INTRODUCTION AND OVERVIEW

This paper describes the evolution of the child support system in the United States and some other industrialized nations that are members of the Organisation for Economic Cooperation and Development (OECD). By child support, we mean the transfer of income to a custodial parent for care of a child with a living noncustodial parent. Transfers from the noncustodial parent are referred to as private child support. Those financed by government are referred to as public child support.

In the United States, the quality of child support institutions is of great concern because a large proportion of children do not live with both of their parents. More than one in five children are currently eligible for child support, and according to demographers one-half of the next generation will become eligible before they reach adulthood.¹ Although the proportion in the other member countries of OECD outside Scandinavia is much smaller, it is growing.²

The next section of the paper analyzes the evolution of the child support system in the United States. It examines three issues related to the public enforcement of private support obligations--the establishment of the child support award, the determination of the amount due, and the collection of payments--and concludes that the United States is moving away from judicial discretion towards the routinization associated with taxation and social insurance programs. The United States is also moving away from public benefits as a substitute for both the earnings of the

custodial parent and private child support payments; it is moving toward benefits as a supplement to both.

The third section compares the United States to other OECD countries. The overall trends are similar though uneven. In some areas one nation has moved faster--or slower--than other nations.

The fourth section presents estimates, based on U.S. data, of the limits of both private and public child support in reducing poverty and welfare dependence. The data suggest that the maximum potential of private support is substantial. But achieving even a decent portion of the maximum will require improvements in all facets of enforcement. Moreover, even if the maximum were achieved, it would leave unsolved three-quarters of the poverty and dependency problem. Supplementing private support with an assured public child support benefit would solve only about half the problem. To come close to eliminating poverty and dependence requires going beyond child support.

What are the arguments--pro and con--for enacting legislation that takes the public enforcement system of the private child support obligation even further in the direction of the tax model? Similarly, what are the pros and cons of giving more emphasis in public child support to supplementing earnings and private child support? The fifth section summarizes the debates in the United States and other OECD countries over these issues.

II. THE CURRENT U.S. SYSTEM: IN EVOLUTION

All observers would agree that the U.S. child support system is undergoing profound changes. As a consequence a description of the

system is of necessity a description of its evolution. The first part of this section analyzes problematic aspects of the public enforcement of private child support that have prompted change, describes legislated changes on both the state and federal levels, and concludes that the evolution of this part of the U.S. system is best characterized as a movement away from judicial discretion towards the routinization associated with taxation and social insurance. The second part of this section analyzes changes in the public benefit part of the system and concludes that public benefits are becoming less a substitute for, and more a supplement to both the earnings of the custodial parent and the private child support of the noncustodial parent.

A. Public Enforcement of Private Support

The private child support system in the United States has historically been a state prerogative implemented through the judicial branch. In most states, the obligation of absent parents to pay child support is explicitly stated in statute, although in some states the obligation is only implied.³ Under the traditional family court system, two steps are involved in obtaining private child support: (1) the determination by a court of the amount of child support to be paid by the noncustodial parent on an individualized basis; and (2) the payment of that support obligation directly by the noncustodial parent.

With respect to establishing awards and setting amounts, several problems can arise. First, there is often a failure to establish any award at all. Nationally, only 61 percent of mothers eligible for child support have awards.⁴ The proportion with an award varies dramatically

with the marital status of the mother. Whereas about eight out of ten divorced mothers receive child support orders, less than half of separated mothers and less than one in five never-married mothers have orders. The incredibly small proportion of child support awards in never-married cases is closely related to the widespread failure to establish the paternity of children born out of wedlock. The issue is discussed below in Section V.

A second problem with the setting of an award on a case-by-case basis by a judge in a judicial hearing is that it is very expensive, in time and cost to the parents as well as in delays for the children needing support. The time of judges and other court personnel makes the procedure expensive to the public also. These costs continue to rise as the number of child support determinations increases.

Third, the case-by-case determination of the amount of the award often results in unfairness. Judges in some jurisdictions have used a child support obligation schedule similar to a tax table. For example, nearly every county in Michigan used a schedule in which the absent parent's obligation depended only upon his income and the number of children he was required to support.⁵ Delaware also pioneered in the use of a quantitative child support schedule, though the Delaware formula was far more complicated than Michigan's. But such child support schedules have been the exception rather than the rule.

Numerous studies have documented that the child support system treats equals unequally.⁶ Data for Wisconsin indicate that child support awards range from zero to over 100 percent of the noncustodial father's income.

Table 1 shows that in 20 percent of the cases, child support awards for one child were less than 10 percent of the noncustodial father's income. In 50 percent of these cases, awards were between 11 and 20 percent. The data also indicate that average award levels as a percentage of non-custodial parents' incomes vary substantially across counties (not shown on table). The average for one child ranges from 12 percent to 24 percent. For two and three children respectively, the ranges are 18 percent to 36 percent and 13 percent to 37 percent.⁷

The system is also regressive. Child support obligations represent a greater proportion of the incomes of low-income parents than of those who are well off. In Wisconsin, orders decline as a percentage of income as the noncustodial father's income increases (Table 2). For one child, orders range from a high of 32 percent for those with incomes less than \$5,000 to a low of 12 percent for those with incomes between \$30,000 and \$40,000.

Child support awards are also considered to be inadequate.⁸ What is not so clear is the extent to which they are low because the initial awards were low or because they have not been updated to reflect changes in the cost of living or earnings ability of the noncustodial parent. Data from Wisconsin, for example, indicate that initial child support awards during the period 1980-1983 were on average virtually identical to a percentage of the noncustodial parent's income that had been deemed appropriate in establishing standardized awards in 1984.⁹ In view of the fact that most observers consider the Wisconsin standard to be one of the toughest proposed, this suggests that in Wisconsin, at least, the problem

Table 1

Child Support Order as a Percentage of Gross
Income By Number of Children

Order as % of Noncustodial Parent's Income	Percentage of Cases by Number of Children		
	1 N = 1,087	2 N = 829	3 N = 277
0-10%	20%	10%	6%
11-20	50	36	27
21-30	21	30	33
31-40	5	15	20
41-50	3	5	9
More than 50	2	5	6

Source: Family Court record data file from Wisconsin Child Support Reform Demonstration Project, 1985, Institute for Research on Poverty, University of Wisconsin, Madison.

Note: This table covers custodial families with a child support award and with three or fewer children. Cases with 4 or more children (N = 102) are not tabulated because the sample size is too small for reliable estimates. Of the 3,806 cases meeting the sample requirements, income information is missing in 1,536 cases. In addition, 77 cases have zero reported income and are also excluded. This results in a final N of 2,193.

Table 2

Relationship Between Noncustodial Parent's Income at the
Time of the Child Support Order and Level of Child Support
Awards by Number of Children and Gross Income Category,
Selected Wisconsin Counties

Income Category of Noncustodial Parent	N	Percentage of Income by Number of Children		
		1 N = 1,087	2 N = 829	3 N = 277
Less than \$5,000	151	32%	41%	33%
\$5,000-10,000	538	20	27	28
\$10,000-15,000	506	18	25	31
\$15,000-20,000	443	15	22	30
\$20,000-30,000	450	13	21	24
\$30,000-40,000	107	12	20	32
\$40,000 or over	<u>100</u>	<u>16</u>	<u>19</u>	<u>14</u>
Weighted Average	2,295	18	24	27

Source: Family Court record data file from Wisconsin Child Support Reform Demonstration Project.

Note: There is an upward bias in the estimates for child support as percentage of gross income. Because of coding error, net income is used for about 280 cases for which gross income is not available. Current work is in progress to separate those cases.

of inadequate awards is traceable entirely to the failure to update them regularly. The extent to which this is true in the rest of the country is not clear.

Aside from the difficulties associated with the establishment of an award and the setting of an amount, the system also has problems in the collection of support once the award is made. The standard procedure has been for the court to order the noncustodial parent to pay, with the actual collection left to the beneficiary of the order--the custodial parent. This means that if the absent parent fails to pay, the custodial parent has to initiate a legal action, usually by citing the nonpaying parent for contempt. This proceeding is fraught with difficulties for the custodial parent. It requires legal counsel--a substantial financial burden for a parent already not receiving support--and often involves difficult fact determinations because of the lack of adequate records of direct payments to the custodial parent.

In a few states, such as Michigan and Wisconsin, private child support must be paid to a government agency, which not only serves the entire community by documenting whether support is paid or not, but also has the authority to initiate legal action when obligations are not met. The Michigan Friend of the Court, founded in 1917, is the oldest such agency. Still, except when government subsidies to the custodial family were involved, such government agencies, in the past, did not use this authority unless specifically requested to do so by the custodial parent. In most cases, the burden of collecting overdue support fell on the custodial parent.

Jail is the ultimate sanction for those who do not pay. Thousands of absent fathers have been jailed each year in Michigan for failure to

comply with child support orders.¹⁰ There have been no systematic studies on the prevalence of jailing elsewhere. According to Chambers, jailing works.¹¹ That is, when combined with an effective monitoring system, it deters nonpayment. His conclusion is based on the strong association between payment performance and utilization of jails across counties in Michigan. A final point to note is that only a small minority of absent fathers who fail to pay child support are jailed.

The most effective tool for collecting child support is a wage assignment.¹² A wage assignment is a legal order to the employer of the child support obligor to withhold a specified amount from the employee's wages.

The legal system for collecting child support is generally regarded as ineffective.¹³ Nationally, only half of the parents with awards receive the full amount due them and about one-quarter receive nothing.¹⁴

The failure of the private child support system in the United States to provide adequately for the needs of children who live with one parent is not new. In the early part of this century it had become sufficiently acute to attract the attention of the National Conference of Commissioners on Uniform State Laws.¹⁵ Yet, the enforcement of private child support was viewed as strictly a state and local problem until four decades ago.

In the late 1940s congressional interest in absent fathers grew in response to the upward trend in divorce, separation, desertion, and out-of-wedlock births. Because of this trend, children with living but absent parents replaced orphans as the most numerous recipients of Aid to Families with Dependent Children (AFDC), a government subsidy to poor

children living with one parent, funded jointly by the states and the federal governments. Congress enacted the first federal legislation regarding private child support in 1950. State welfare agencies were required to notify law enforcement officials when a child receiving AFDC benefits had been deserted or abandoned. Further legislation, enacted in 1965 and 1967, allowed states to request addresses of absent parents from federal social security records and tax records. States were also required to establish a single organizational unit to enforce child support and establish paternity.

The most significant federal legislation was enacted in 1975, when Congress added Part D to Title IV of the Social Security Act, establishing the Child Support Enforcement (IV-D) program. This legislation established a federal Office of Child Support Enforcement and required each state to establish a corresponding agency to help enforce child support in all AFDC cases and, since 1980, in non-AFDC cases, should assistance be requested from the custodial parent. It also required states to maintain a parent locator service that tied in with a federal service. In short, the 1975 act created the public bureaucracy to enforce private child support obligations.

By 1985 collections reached \$2.7 billion, including \$1 billion for AFDC recipients. This represents an increase of 282 percent in collections for AFDC families between 1976 and 1985.¹⁶ There is good reason to believe that child support collections will continue to grow, for the 1985 figures do not reflect the effects of the strongest federal child support legislation to date.

That legislation was passed in 1984 by a unanimous Congress. It addressed most of the major shortcomings of the private child support system: the failure to obtain a child support award from the courts, the inequity and inadequacy of awards, and the failure to collect support even though the payer is delinquent.

On the issue of obtaining orders, the states were required to adopt expedited procedures for obtaining support orders either through the judicial system or in an administrative agency. To increase the number of awards among never-married mothers, states were also required to allow the initiation of paternity action any time prior to a child's eighteenth birthday. Paternity suits in the past were restricted by statutes of limitation which varied from state to state but typically permitted only two to six years of delay after the child's birth. On the issue of equitable and adequate support orders, all states were required to establish child support guidelines to be available for use by October 1, 1987, for judges and other officials who set child support. These guidelines, however, need not be binding upon the judiciary. And there were no provisions to ensure the updating of awards. On the issue of the effective collection of child support, the 1984 amendments encouraged the states through fiscal incentives to monitor payments in all child support cases. Moreover, the amendments required the states to adopt automatic income withholding for child support to take effect after one month of nonpayment.

Finally, both states and the federal government have been strengthening legislation to assure that paternity is established. Between 1979 and 1986 the proportion of never-married cases with child

support awards increased dramatically, from 11 percent to 18 percent.¹⁷ In view of the fact that nearly all of the improvement came from the flow of new cases into the system--if paternity has not been established once a child reaches age two or three, it is very rare for it to be established afterwards--the efficacy of current procedures is substantially underestimated by the 18 percent figure. Furthermore, both states and the federal government are continuing to enact legislation that facilitates the establishment of paternity. It seems likely therefore that within a decade, paternity will be established in at least a majority of new out-of-wedlock births. If so, the United States will begin to look more like other OECD countries. Compared to Sweden, however, which establishes paternity in 95 percent of out-of-wedlock cases, the United States still has a long way to go.¹⁸

Many states have gone beyond the 1984 federal law and new, even stronger, federal legislation is being proposed and stands a good chance of passage. With respect to guidelines or standards, several states, including Colorado, Minnesota, Texas, and Wisconsin have established standards that are nearly binding upon the judiciary in that the standard becomes the presumptive child support award from which the judge or hearing officer can depart only with a written justification, which may be reviewed by a higher court. Similarly, several states including Arizona, Texas, Massachusetts, and Wisconsin have adopted income withholding laws which take effect automatically when an obligation is established rather than only in response to a delinquency in payment. Indeed, Massachusetts has gone so far in the direction of a tax model for child support collections as to turn over responsibility for collections

to the state revenue department. However, as of 1984 only seven states require that all child support payments be made to a state agency.¹⁹

Yet the trend is clear. Several bills with strong bipartisan support are now before the U.S. Congress. They propose making state guidelines the presumptive child support award; requiring child support awards to be updated to reflect changes in economic circumstances at least every two years; requiring all child support payments to be made to a state agency; and requiring universal immediate withholding in all child support cases.²⁰

In summary, all facets of the public involvement in private child support obligations are undergoing change. These include public attention on, or actual action taken towards: (1) obtaining awards in nearly all child support cases; (2) determining the award in the overwhelming majority of cases by a numeric standard; (3) regularly updating the award to reflect changes in the ability of the noncustodial parent to pay and the needs of the child; (4) requiring that child support payments be made to a public agency; and (5) requiring that child support payments be withheld from wages and other sources of income in all cases. On all these issues the United States is moving away from judicial discretion toward the routinization associated with taxation and social insurance.

B. The Public Child Support System

Public support is a significant feature of the U.S. child support system. Public transfers to poor families with children eligible for child support substantially exceed private child support transfers to all U.S. children. Whereas slightly over \$7 billion in private child support was paid in 1985, AFDC expenditures on families eligible for child

support were equal to about \$8 billion. If the costs for food stamps (\$5 billion), housing assistance (\$3 billion), and Medicaid (\$8 billion) are included, public transfers equaled nearly \$24 billion, or more than three times private child support transfers.²¹ In general, the public system substitutes for the private system where the latter has broken down. About half of all children living in female-headed households are on AFDC, and only slightly over 10 percent of these households receive any financial support from the absent parents.²²

The AFDC program, commonly referred to as welfare, was established in 1935 for quite different purposes from those it now serves. It was intended to provide support for the families of deceased fathers in a society in which it was considered undesirable for mothers with children to work. Today the program is primarily for children who have a living absent parent legally liable for their support and a custodial parent who increasingly is expected to work.

By the 1960s, the prevailing belief that cash welfare programs should enable poor single mothers to stay home and rear their children had begun to erode. At first, in 1967, the federal government tried to induce AFDC mothers to work by creating work incentives within AFDC. When this failed to have much impact on either work or caseloads, the Congress in 1972 began legislating requirements for mothers to work when they had no children under age six. In 1977, the Carter administration proposed a combination of a guaranteed-jobs program and assistance, which would have, in effect, required mothers without preschool-age children to work. In 1981, the Reagan administration rejected the approach of creating work incentives within the AFDC program in favor of a pure work requirement. It sought to cut off benefits to those who were already working a

substantial amount and to require those who received benefits to work for them. In the early 1980s, Congress agreed to much, but not all of this strategy. By 1987 almost every major welfare reform proposal contained both work requirements and the provision of services such as training and day care to facilitate work.

As structured, the current public system of child support encourages welfare dependency. It imposes a high tax on the earnings of welfare mothers, which discourages work, and it offers nothing outside of welfare to supplement the incomes of poor single mothers who have a low earnings capacity. Like any social assistance program, AFDC is designed to aid only the poor, and therefore benefits are reduced when earnings increase. After four months on a job, a woman on AFDC faces a reduction in benefits of a dollar for every dollar of net earnings. It is not surprising that the majority of mothers on welfare do not work during the months they receive benefits.

Welfare mothers have a very low earnings capacity, and even if they were fully employed, it is estimated that one-half could earn no more than the amount of their annual welfare grant, and another quarter could earn only up to about \$3,200 more.²³ This suggests that it is unreasonable to expect these women to be totally self-supporting and that some form of transfer is necessary to provide an adequate standard of living for their families. The only way to alleviate their poverty without creating total dependency is to supplement rather than replace their earnings. Some of this money can come from improved collections of private child support. The rest must come from public transfers. How much of each is not known at this time.²⁴

We have described above a number of federal reforms designed to strengthen the enforcement of private child support obligations. Increased child support payments from parents of children on AFDC will generate savings in AFDC expenditures. These savings can be used to reduce taxes or to increase the economic well-being of children eligible for child support, or some combination of both. In view of the fact that children potentially eligible for child support and the mothers who care for most of them are among our poorest citizens, using these funds to improve the economic well-being of these families is at the very least the compassionate thing to do. It is also wise. One-half of our next generation will be eligible for some child support before reaching adulthood. Investing in them is therefore investing in our future. Furthermore, sharing some of the increased revenues with these families will encourage the mothers to cooperate in establishing the paternity of noncustodial fathers--one of the weakest links in the current system.

Congress and the Reagan administration have already approved two alternative methods of sharing some of the AFDC savings with families eligible for child support. All states are now required to ignore the first \$50 per month of private child support (a \$50 set-aside) in calculating the amount of the AFDC benefit. One state, Wisconsin, is permitted to use the federal share of AFDC savings to help fund an assured child support benefit as part of a comprehensive child support assurance system (CSAS). Senator Patrick Moynihan's welfare replacement bill would extend that waiver to the state of New York.

Under the Wisconsin child support assurance system, all parents living apart from their children would be obligated to share income with their children. The sharing rate is specified in administrative code and,

exceptional cases aside, depends only upon the number of children owed support.²⁵ The obligation is collected through payroll withholding, as social security and income taxes are. Children with a living non-custodial parent are entitled to benefits equal to either the child support paid by the noncustodial parent or a socially assured minimum benefit, whichever is higher. Should the noncustodial parent pay less than the minimum, the difference is financed from the AFDC savings and from a small surtax up to the amount of the subsidy, which is paid by custodial parents who receive a public subsidy. Thus under CSAS, AFDC savings generated by increased child support are used to assist women outside the welfare system. Which method is preferable: Sharing the gains inside or outside of welfare? This question is addressed in Section V below.

III. TRENDS IN OTHER OECD COUNTRIES

As in the United States, all other OECD countries protect children with absent parents through both a private and a public system. In Europe, however, protection of children takes precedence over the enforcement of parental obligations. European public benefit systems are more comprehensive. Among families headed by single mothers in Sweden, Great Britain, and the United States, the proportions benefiting from some form of government transfers are respectively 98 percent, 89 percent, and 57 percent.²⁶ Until recently, at least, strengthening public enforcement of the private child support obligation has not been an issue in most OECD countries.

Even in European countries, however, the increase in divorces and out-of-wedlock births has directed more attention to the obligations of parents. The Council of Europe, for example, deemed the issue of sufficient importance to adopt a set of Recommendations on Parental Responsibilities in 1984 for its member nations, affirming that "in all cases both parents should be under a duty to maintain the child."²⁷ Outside of Europe, issues related to private child support have generated intense political debates in Australia, New Zealand, and Canada. This section begins with an analysis of the trends in private support and concludes with a brief description of trends in public support.

A. Public Enforcement of Private Support

We will examine the three dimensions of private child support--establishing awards, determining amounts, and collection payments--in the following paragraphs. Table 3 summarizes the patterns in several countries.

Compared to the United States, establishing paternity and securing awards for unmarried mothers is not an important issue in other OECD countries. The number of single-parent families, albeit increasing steadily in all OECD countries, is, with the exception of Scandinavia, still considerably lower than in the United States. The number of births outside marriage is much smaller, and consequently the establishment of paternity is not a problem. Even in Scandinavian countries where the out-of-wedlock birthrate is high, establishing paternity is straightforward because the law requires it and it is therefore taken for granted that paternity should be established in all cases. That a large proportion of the unmarried mothers live in a stable cohabitation arrangement

Table 3

Comparison of Child Support Issues Among Select OECD Countries

	Australia	Canada	Germany	Netherlands	New Zealand	Sweden
<u>Award Establishment</u>						
Paternity identification	Custodial parent cooperation required for continual receipt of government benefits			Cooperation not required	Custodial parent cooperation required	
<u>Award Amount</u>						
Numeric formula	Under discussion	No	Yes	Under discussion	Yes for recipients of government benefits	
Periodic updating	No	No	Price-index	Automatic wage index	No	Automatic price index
<u>Collections</u>						
Public agency	Yes in 2 states	No	Yes	Yes	Yes for recipients of government benefits	
Delinquency withholding	Court only	Varies by prov.	Court only	Administrative enforcement	Administrative enforcement for recipients	
Immediate withholding	Under discussion	No	No	No	No	No
<u>Relation to Public Benefits</u>	Set-aside for welfare	No	Advance maintenance	No	No	Advance maintenance

with the fathers of their children both facilities enforcement and may be partly a consequence of such strong enforcement.

Moreover, Scandinavian countries developed a comprehensive system to locate absent parents long ago, whereas the United States did not begin to take action until 1975. In Sweden, the municipal social committee is informed of all out-of-wedlock births and has access to the central population registers of the nation, to which the whereabouts of all residents are reported.²⁸ The system is also distinguished by the manner in which its tasks are centralized. The same agency is involved in locating fathers and establishing paternity, subsequently collecting payments from the father, and disbursing advance maintenance (a public subsidy to the custodial family, which is then collected from the absent parent). Recent legislation also empowers the agency to initiate paternity proceedings independent of the mother. As a result, paternity is established in about 95 percent of all cases.²⁹

In no OECD country are unwed mothers required to identify the fathers of their children. In most countries, however, a custodial parent receiving government benefits by virtue of her single-parent status is required to cooperate with the state in identifying the absent parent, although generally establishing paternity is not in itself a prerequisite for eligibility. When the absent parents are identified in these cases, support payments are collected from them to reimburse the government.

The Netherlands is an exception to this pattern in its complete decoupling of benefit eligibility and cooperation in identifying the fathers. The Netherlands also happens to have one of the lowest out-of-wedlock birthrates. Only about 1 percent of Dutch family heads are never-married mothers. The comparable figures for West Germany, Sweden,

and the United States are over 2 percent, 15 percent, and 8 percent, respectively.

The distinct treatment of families receiving subsidies extends beyond identification of the father in some countries. New Zealand's Liable Parent Contribution Scheme is a prototype of this dual system.³⁰ Since 1981, the noncustodial parent of a family receiving Domestic Purposes Benefits, a governmental assistance program for low-income families, has been assessed child support by means of a legislated formula. The obligation is centrally collected by a public agency, with the authority to initiate automatic withholding of income upon failure to pay. On the other hand, if a custodial family does not rely on government welfare, the noncustodial parent is not covered by the scheme and is allowed to reach a voluntary agreement on child support. In this case, the implementation of the agreement is left to the private parties, with the court as the only recourse when payments are not forthcoming. The overall collection of private support has increased dramatically under the scheme--having risen from 25 percent of the amount owed before its inception in 1981 to about 43 percent in 1983.³¹ It still remains below the 67 percent collection rate in the United States and similarly higher rates in Sweden.³²

Until recently, public enforcement of private child support in Australia was very weak. Only 24 percent of mothers whose children were potentially eligible for child support receive any.³³ The comparable figure for the United States is 44 percent. Even among those with a child support award, only 37 percent receive child support.³⁴ The Australian system is characterized by judicial discretion. Traditionally

there are no child support standards or guidelines for determining obligations. For the most part payments are made directly to custodial parents. Furthermore, Australian family law legislation contained a clause which directed the courts to consider the custodial parent's eligibility for public assistance in determining the private child support obligation. Because of this clause and because over 80 percent of single mothers receive such public assistance, it would be accurate to say that in Australia private child support payments were supplements to public payments.

But Australian law is changing dramatically.³⁵ Child support collections have been turned over to the tax office. Obligations are to be withheld from the wages of all earners, and the self-employed will be required to make periodic payments to the tax agency. In the second stage of reform, which has yet to be implemented, the government also plans to turn over to the tax office the determination of child support obligations. In the overwhelming majority of cases a relatively simple formula will be used in an administrative hearing. Parents will be free to appeal the award to a court.

Thus the trend for the standardized determination of support obligation is clear. New Zealand has recently implemented its standard for publicly assisted custodial families, as has Sweden,³⁶ and Australia is planning to adopt a numeric standard for all families. Denmark and Norway have the longest history in departing from judicial discretion in assessing support obligations.³⁷ The formulas in these two countries take the form of a minimum obligation equal to the government's advance maintenance level. Low-income noncustodial parents are expected to pay

that basic amount while more wealthy parents are assessed more, calculated as additional percentages of the basic payment. West Germany has a similar formula although its basic payment is the guaranteed benefit of the government's social assistance for the poor instead of advance maintenance for custodial families.

A drawback of the type of formula used in Denmark, Norway, and Germany is that support obligations become severely regressive at the lower end of the income distribution; poor noncustodial parents are hard-pressed to come up with the payments and many end up being delinquent. On the other hand, such a formula has a positive consequence for all custodial families. Since obligations are expressed in terms of social benefits and the levels of benefits are periodically adjusted upward, the awards are also updated periodically. In Denmark, the basic support amount rises automatically with the price index every six months. In West Germany, the adjustment is subject to government discretion but is still quite frequent.

Since inflation tends to erode the value of an initial award, periodic updating is an important mechanism to protect recipients of private support. Other countries in OECD with a legislated mechanism for periodic adjustment of the award include the Netherlands, Finland, and Sweden. Lobbyists for noncustodial parents are naturally opposed to automatic indexing to price level, arguing that such measures ignore the hardship of many payers whose incomes have remained constant or even declined. Surprisingly perhaps, none of the countries has adopted an aspect of income taxation that might be helpful to those who suffer this hardship--adjusting the child support obligation up and down in proportion to increases and decreases in the incomes of noncustodial parents.

Even Wisconsin hasn't done this. Perhaps this indicates that this aspect of the tax model is not appropriate for child support enforcement. In one respect, the approach taken by France and Switzerland is more favorable to noncustodial parents. In these countries judicial indexation clauses are often incorporated in the initial award, and subsequent adjustments are triggered by judicial review.³⁸ Finally, the other English-speaking members of OECD--Great Britain, Canada, Australia, and New Zealand--are similar to the United States in having neither administrative nor judicial mechanisms to update awards. Appeals for change are left to the initiatives of the custodial parents, who must go through a cumbersome judicial process.

The success of routinization in award determination depends on the mechanism of collection selected by a country. The use of a standardized formula is futile if noncustodial parents can easily avoid payments. Yet in many OECD countries the enforcement of established awards is loose. As a result the proportion of private child support debts collected is not impressive. The Netherlands and Sweden are among the few countries that are more efficient than the United States in this respect.

The Netherlands is the only country where child support must be paid to an administrative agency by law. The Dutch Council for Child Protection manages the collection and disbursement of all private child support and is authorized to withhold nonpayers' income.³⁹ Many other European countries have also set up administrative agencies at the national level for collecting support, but generally private payment arrangements continue to be permitted, making uniform and efficient enforcement difficult. France has recently adopted legislation to transfer the collection function to its tax office, but no information is

available on its effectiveness. Britain, the United States and Canada are among the few countries where public supervision of payments remains a function of the judicial branch.

Concerns about irresponsible absent parents emerged recently in Canada,⁴⁰ where enforcement of private support is carried out by the courts in individual provinces. Some of the Canadian provinces have started to strengthen the administrative apparatus of the family court to enable easy review and enforcement. Manitoba and Ontario have both instituted automated systems of payment record whereby court personnel can initiate income withholding upon nonpayment.

Some form of income withholding is permitted as an enforcement tool by all OECD countries. The traditional approach as noted is initiated by custodial parents upon nonpayment and is then left to judicial discretion. Australia, West Germany, and some provinces in Canada are examples of such systems. A more recent trend is legislated withholding provisions to be initiated administratively by a government agency when payments are delinquent. This approach is of course predicated on the creation of an agency in charge of collection which can then monitor payment performance. This is carried out in the Netherlands as well as in New Zealand and Sweden for cases involving government benefits. No country has a mandatory system of universal and automatic withholding similar to the one being carried out in Wisconsin in the United States.

In conclusion, this review of child support enforcement issues in OECD countries other than the United States has revealed a movement toward standardization and administrative enforcement across countries, but within each country no consistent pattern of development has emerged across all areas of enforcement. Referring back to Table 3, for

instance, the Netherlands has legislated periodic updating of awards according to an official wage index and is ahead of most countries in having established a strong collection bureaucracy, but the determination of the award itself is a matter of private arrangement and judicial discretion. Sweden has an administrative enforcement system in all areas, but only for beneficiaries of government programs; for nonrecipients of government benefits, individual discretion is the dominant theme. Australia, on the other hand, has been among the slower countries in evolving toward routinization in all areas of enforcement, but the sweeping reform currently taking place in that country may well place it in a leading position in some areas, in requiring immediate withholding, for example.

Finally, even where more advanced enforcement mechanisms are in place, the other OECD countries are not necessarily more successful than the United States in actually transferring income from noncustodial parents to their children. The weakness of their systems may be a historical lack of political pressure. It is our observation, however, that such pressure is growing and sooner or later steps will be taken to strengthen the collection of private support.

B. The Public Child Support System

All OECD countries have social assistance programs for low-income citizens. These programs are similar to AFDC in the United States in serving as the safety net for single-parent families, although in most countries eligibility is not limited to this family type. Aside from Australia, however, none appears to have such a high proportion of mother-only families dependent upon social assistance.

Except for the United States, all OECD countries provide children's allowances, a benefit for all children irrespective of the income and marital status of their parents. In some countries, including Denmark and Great Britain, families with absent parents are entitled to a higher allowance. Most countries also provide income-tested housing allowances. In addition, health care coverage in other OECD countries is generally broader than Medicaid in the United States.

Finally, several OECD countries have an assured child support benefit, or, as it is frequently called, an advance maintenance benefit. Although the entire system of public benefits for families with children is obviously relevant in comparing countries, this section focuses on the more narrow question of what other countries are doing with respect to assured child support benefits.⁴¹

The Swedish advance maintenance system is one of the oldest and most developed.⁴² In 1937 a law was passed in Sweden allowing women living with children whose father was absent to apply for advance maintenance payment if the father did not pay. These families would receive up to a certain amount from the government, which in turn became responsible for collecting the debt from the liable father. Amounts not collected would be paid out of general revenue. Eligibility for this program was limited to women who were too poor to provide for the children themselves. In addition, there had to be a legally liable father, which meant that paternity had to be established before advance maintenance was available.

In 1947 eligibility for the program was made independent of the custodial parent's income, and children with an unknown father became eligible after the age of three. The program was changed again in 1957, this time to include a guaranteed minimum support for each child.

Children whose noncustodial parents failed to pay support received this guaranteed minimum payment. Also, children who were supposed to receive less than this minimum according to the support agreement between their parents would receive the difference from the government, provided that the low private payment was due to the noncustodial parent's inability to pay more. The government's guaranteed maintenance level was set at 40 percent of the official basic need of a child. Today, all children with an absent parent are entitled to advance maintenance and, as noted, non-custodial parents of children in the program are supposed to pay a standardized amount of support.

Denmark and Norway have had similar advance maintenance programs for decades.⁴³ Recently, Germany, Austria, France, and some Swiss cantons have developed more limited programs. The German program is typical of this group.⁴⁴ Children who are both eligible for child support and less than six years of age are entitled to receive an assured benefit for a maximum of three years, but eligibility is voided if the custodial parent remarries. The Scandinavian programs are distinguished from these newer developments not only in being more generous, but also, in being more accessible. Their benefits are more easily obtained, since participation usually requires only registration. In contrast, in the other countries the court is often involved in determining eligibility.

The need for government-assured child support payments has been growing with the number of low-income single-headed families. Therefore advance maintenance schemes have been endorsed by the Council of Europe.⁴⁵ Yet it is not always clear what constitutes an advance maintenance scheme. For instance, the Council of Europe includes both "specific schemes for advance payments"--those discussed above--and

"payments under a social benefit scheme," or welfare, and concludes that "whenever the payment can be recovered from a debtor, no substantial difference exists between a social benefits and an advance payments system."⁴⁶ How true this conclusion is we shall examine in discussing the differences between and relative merits of "assured benefit" and "set-aside" programs in Section V.⁴⁷

IV. LIMITS OF CHILD SUPPORT: EVIDENCE FROM U.S. DATA

A. Limits of Private Collections

Improvements in any one dimension of the public enforcement of private child support will have small effects on poverty, welfare dependence, or costs. This is because each dimension of the system limits the potential effectiveness of other dimensions of the system. For example, how much can be gained by increasing awards is dependent upon the degree to which obligations are paid. Similarly, the efficacy of improving payment performance is limited by the degree to which awards are adequate. In a study based on Wisconsin AFDC data, McDonald, Moran, and Garfinkel found that (1) getting awards in all cases, or (2) raising existing awards to the Wisconsin standard, or (3) collecting 100 percent of what was currently owed would each lead to increased child support collections for AFDC cases of from \$16 million to \$25 million.⁴⁸ In contrast, doing all three simultaneously would lead to an increase in collections of \$141 million--which is equal to more than twice the sum of the individual improvements.

The maximum potential effect of improvements in all dimensions of child support is large. Oellerich and Garfinkel estimate that for the United States as a whole, if child support obligations had been obtained in every case; were established at the Wisconsin or Colorado standard; were updated annually; and were paid in full, the poverty gap in 1983 for families potentially eligible for child support would have been reduced by about 30 percent, welfare dependence by about 16 percent, and welfare costs by about 30 percent.⁴⁹

Despite the fact that these are sizable effects, two caveats are in order. First, these effects are the maximum that would result from a perfectly efficient child support enforcement system. Perfection in all dimensions is unattainable. More realistic estimates are on the order of two-thirds to three-fourths of the maximum potential estimates. Second, and more important, even a 30 percent reduction in poverty still leaves 70 percent of the problem. We can conclude therefore that although private child support has the potential to make a substantial dent in poverty, welfare costs, and to a lesser extent welfare dependence, private child support alone is not nearly sufficient to eliminate poverty or welfare dependence.

B. Limits of Public Child Support

A child support assurance system like the one being tried in Wisconsin can make substantial additional reductions in both poverty and welfare dependence. As noted above, an assured child support benefit is one method of sharing with low-income families eligible for child support the savings on welfare expenditures that arise from increased child support collections. A federal child support assurance system (CSAS) that

was cost neutral--i.e., one that funneled all AFDC savings back into the system, but cost the treasury no additional funds--would reduce poverty by about 40 percent and AFDC caseloads by about 50 percent.

Although these estimates document that the potential for a child support assurance system to reduce poverty and dependence is quite impressive, they also document the limits of a child support strategy. Even if all the welfare savings resulting from increased private child support payments to AFDC families were used to finance an assured benefit, over half the poverty problem for this target group would remain. In short, though child support is a good strategy for reducing poverty, it is hardly a sufficient strategy.

V. COMMON ISSUES IN OECD COUNTRIES

The limitation of child support transfers notwithstanding, the desire to strengthen the institution of child support is evident in many OECD countries. This section returns to the four dimensions of the child support system for some reflections on the policies of reform. In the process the arguments for and against current changes will be considered.

A. The Establishment of a Child Support Award

The first weakness of the traditional system, the absence of a support order, is primarily associated with never-married families when paternity has not been established. The portion of births out of wedlock has been increasing in all OECD countries. The legal identification of the father is an important requisite for the pursuit of support for many children.

--Should the government step up its resources to identify and locate fathers? What are the costs and benefits?

Since 1975, the United States has established a network of parent locator services to help search for noncustodial parents in paternity cases. Paternity is adjudicated in court if not voluntarily acknowledged. Custodial parents receiving welfare run the risk of losing part of the benefits if they do not assist in this process. Never-married mothers in most other countries are also required to cooperate if they wish to continue to receive public child support benefits.

One objection to this requirement is that it results in harassment of benefit recipients. Some custodial parents may wish to sever all ties to the noncustodial parents. Others feel that they are stigmatized by the process.

Another objection to placing too much emphasis on pursuing paternity is its cost effectiveness. The costs of enforcing child support are obviously higher if paternity must be established. Yet collections are generally not impressive, because fathers in never-married cases tend to be poorer, and it is usually more difficult to collect from them. Adjudicated fathers are less likely to make regular payments. Therefore, enforcement resources may be better utilized on other noncustodial parents.

On the other hand, rigorous pursuit of paternity cases may encourage young parents with marginal attachments to one another to become more attached and also may have a deterrent effect on those prone to be irresponsible parents. Thus even if establishing paternity were not cost effective as conventionally measured it might be cost effective if all the benefits were measured.

And it is not clear that paternity action is not cost effective today. As blood tests have improved, the costs of establishing paternity

have decreased, and the success rate of positive identification has increased.⁵⁰ Research also indicates that though the incomes of the fathers of children of teen mothers are low, they are not negligible.⁵¹ Combined with the expected improvements in collection mechanisms, the cost of pursuing paternity cases can easily be recovered in the long run.

Finally, as child support increasingly comes to be seen in the light of the tax model, the liability of the noncustodial parent to the child and to the public is given more emphasis than the custodial mother's discretion in establishing paternity. Current practices imply that the applicability of the tax model is bounded by the receipt of public child support, since mandatory participation in paternity identification is required only of custodial mothers who are government beneficiaries.

If the tax liability model of child support is extended to cover all families, one might envision the requirement for paternity establishment in all out-of-wedlock births regardless of economic status. This practice would enforce the principle of parental responsibility to its full extent. It expands the right of the out-of-wedlock child beyond the need for current support to entitlements to social insurance benefits, succession rights, and family identity.

B. Setting the Amount of the Award

The United States has recently required states to devise numeric guidelines for establishing child support. Many European countries have used standard formulas for many years, and Australia is considering such legislation.

--What is the case for statewide numeric standards as opposed to the traditional system of judicial discretion? Should such standards be binding?

There are three arguments for setting support obligations through legislated numeric formulas. First, the public has a direct financial stake in the amount of payment by noncustodial parents whose children receive public supplements. The lower the amount of private support, the greater the burden on taxpayers. How the support of poor children should be apportioned between the two parents and the public is a policy issue that courts are not suited to resolve. It is a legislative matter.

Second, the traditional system results in inequity. The level of award depends upon the attitudes of local judges, the power of the ex-spouses, and the skills of the lawyers.

Third, the traditional system exacerbates tensions between ex-partners by placing the decision on the amount of support in an adversarial context.

In contrast, the advantages of the discretionary system are fivefold. The first reason for relying on the judicial process is that each case is unique. Some children may better benefit from in-kind support or property from the noncustodial parent. Some parents may be rich in resources that cannot easily be quantified in a formula. Courts are ideally suited to this task.

Second, most divorcing parents reach agreements without the intervention of judicial authorities. Third, removing the adversarial nature of support determination may be helpful to the relations between the ex-partners, but it may increase hostility to the government because of the perceived rigidity of the law.

Fourth, fixing support obligations in the law may shift the focus of the battle between ex-spouses from the amount of child support to the

custody of the children. Custody fights are likely to be more harmful to the children than fights over child support.

Finally, most of the arguments for a legislated formula for child support would be satisfied by guidelines rather than binding law. Indeed, the guidelines required by the U.S. Congress need not be binding upon the courts or administrative agencies, nor even be the presumptive child support award.

Yet several states have adopted presumptive but rebuttable standards for awards. Departure from the standard may be requested by either spouse in court. If the argument convinces the presiding official, that official may depart from the standard by making a written finding. Lawmakers in the federal government are also considering making the state guidelines presumptive.⁵²

At issue is the extent to which the setting of support should be transformed from discretion to a resemblance of taxation. Several observations can be made. The first is that some degree of transformation is inevitable. It is a direct result of trends in marriage in modern society.

When the number of broken marriages and paternity cases is small, greater equity is achieved by tailoring agreements to each unique case. In small communities in the past, the judge knew the parents and their circumstances, so justice was better served by taking account of all particulars. But when the number of cases is large and the system becomes impersonal, individualization breaks down. Instead, standardization becomes a more equitable treatment.

In practice, judges in most jurisdictions in the United States now do very little by way of tailoring child support to particular

circumstances. In some OECD countries, the number of child support cases may be a much smaller burden on the courts. Individual discretion may be more feasible there. Even then, there may still be a case for numeric guidelines to promote greater uniformity. In the United States the trend in criminal as well as family law is to have sentencing guidelines on the grounds that greater uniformity promotes equity.

But highly valuing parental responsibility suggests that a stronger version of the tax model than optional guidelines is called for. The existence of a set of guidelines that are not only numeric but also presumptive would convey more clearly society's expectation of the non-custodial parent's liability. A presumptive standard is also sound policy in view of the public's financial stake in the children involved. Optional guidelines would leave public spending decisions in the hands of judges who do not agree with the guidelines.

Is there a case for moving even closer to the tax model? At the extreme the entry of the award amount may be made an automatic process, triggered administratively by the finalization of divorce or adjudication of paternity; the rebuttal of the presumptive standard would become a separate process of administrative or judicial review. The desirability of this procedure is nonetheless limited by the need to consider issues like custody and visitation, which are intimately linked to support obligation. As long as the standards are not fully developed to take these issues into account, such a system may be bogged down by the high incidence of separate reviews needed. For the present, making the child support award a rebuttable presumption is a compromise which will eventually promote much greater uniformity while still preserving a fair degree of judicial discretion in the short run.

--Should private support awards be updated automatically over time?
What basis of updating should be adopted?

Regardless of whether the award is determined through judicial discretion or by standard formula, an issue that deserves consideration is whether to incorporate a mechanism for routine updating. This mechanism may take the form of automatic indexing or mandatory periodic review of incomes. In the traditional discretionary system, this mechanism is typically absent; the updating of award must be initiated by the individual payer or recipient of support through the court.

The main argument for moving away from this traditional judicial process is that it is costly in time and money, both for the parties involved and for the public. The prohibitive costs in turn become barriers keeping custodial parents from seeking increases in support.

Empirical evidence provides ample proof of such negative consequences in the traditional system. In a review of court cases in Wisconsin, it has been revealed that, on the average, the initial amount of award conforms closely with state guidelines in being a percentage of the non-custodial parent's income. Over time, however, few awards are increased and the real value of child support declines under inflation, and no longer bears any relationship to the noncustodial parent's ability to pay.

To some advocates of the traditional system, this may be the way it should be. Since the noncustodial parent no longer lives with the child, the attachment between them weakens over time; and the deterioration of support is a natural way to symbolize this disengagement process.

If the award is indexed to the earnings of the noncustodial parent, it results in a higher marginal tax rate for him or her. If the award is a function of the incomes of both the custodial and noncustodial parents, there is an incentive to reduce one's own income before the review, to minimize one's contribution. Under the traditional litigation system, these distortions are minimized because of the sporadic and uncertain nature of updating.

Yet if the parental obligation to help support his or her child is valued, it should not be shunned because of separate residence or elapsed time. The fact is that the traditional process is ineffective in upholding this obligation over time, and a more efficient administrative mechanism is needed to prevent child support from being eroded by inflation.

This problem has its analogue in the income tax system. The real level of tax brackets and exemptions decrease over time, pushing families into higher brackets. After the inflationary period of the 1970s, many OECD countries opted for indexation of the tax schedule instead of leaving the task to the political process as in the past. In the domain of child support, Sweden is the only country to our knowledge with a legislatively incorporated adjustment in its child support standard.

As other countries begin to consider automatic updating of awards, the question arises as to what is the appropriate index. Price level is one obvious choice. A second alternative is to gauge child support to the personal income or earnings level of the parents. We will briefly consider the case for each.

As noted above, indexing to personal earnings has the drawback of accentuating the distortion of work. But it is more equitable because it is directly related to the ability to pay. The level of support would change along with any gains or losses in the living standard of the non-custodial parent (and of the custodial parent as well, if that is a factor).

On the other hand, the use of price indexing gives more weight to guaranteeing a steady level of private support, since the children's entitlement would be constant in real value. It is more consistent with the disengagement theory, since the level of parental responsibility is frozen at the point of the initial award. The children would not have a share in any improvement in the noncustodial parent's subsequent living standard. Of course, a practical question is whether the parent can still afford to pay in the event of a reduction in income.

It is perhaps fair to say that the best choice of the guideline for updating is a function of various factors in the child support system. For instance, from the perspective of the children's welfare, if the public support system provides for an adequate safety net to buffer possible reduction in private support, earnings indexing is more advantageous; otherwise price indexing might be the safe bet. If the formula for support is a function of both parental resources and child-rearing costs, then a combination--with resources gauged to earnings and cost to price--would make sense. Finally, the choice of index must also be a function of the ease of administration in the collection process, which may differ from country to country.

C. The Collection of Support

The collection of support owed is another problem area of the traditional child support system. Without improvement in the collection mechanism, efforts to determine the appropriate award would be futile.

--Should the government be involved in collecting and transferring private support for all families? If so, what branch of the government--judicial or executive--should be in charge?

The first collection problem in the traditional discretionary system arises from the difficulty in monitoring payments because the arrangement is private. Some states in the United States have long mandated payment through the court but compliance is low and the judicial system has few resources to enforce the rule. Only in 1975 did the federal government require welfare recipients to assign child support rights to the state Office of Child Support Enforcement, thus establishing that agency as the official channel of payments for noncustodial parents in welfare cases. The role of that agency has expanded to nonwelfare families who request the services, and in some states (e.g., Massachusetts) collection has been turned over to the revenue department.

Opponents to the trend to make the collection of support more akin to the collection of taxes generally see it as bureaucratic encroachment in private life. Efficiency is thought to be compromised by setting up government intermediaries. Further, the direct payment of support may be useful in some cases for maintaining parental contact and showing concern.

The empirical fact, however, is that many noncustodial parents do not keep up their payments. And as the number of child support cases

increases, the court is no longer capable of monitoring payment. The introduction of a public administrative agency increases efficiency in these circumstances. Given the burden of collecting from so many cases, this seems an area where the tax model is useful: the uniform collection from all noncustodial parents through an administrative unit.

--Should immediate withholding of income be enforced, or should income be withheld only in the event of delinquency in payment?

In 1984, the U.S. federal government officially sanctioned wage withholding as the route to more efficient child support collection. Contingent wage withholding on all noncustodial parents is to go into effect if he or she is in arrears for a month or more. Many other OECD countries have similar legislation. In contrast, several U.S. states, including Wisconsin, have adopted immediate withholding effective automatically upon the entry of support order. Income withholding has long been used for tax collection. How much should child support collection borrow from the tax model? Immediate withholding for all cases may be construed as an invasion of privacy. It also prevents noncustodial parents from participating actively in supporting their offsprings. Moreover, employers may be reluctant to accept this added burden.

Each of these criticisms also applies to withholding upon delinquency, but there the noncustodial parent may be seen as deserving the punishment because of nonpayment. However, in the taxation model, immediate withholding is routinized and the elements of punishment and stigma are removed.

But the strongest argument for the tax model is that taxing at the source is effective. No one would expect that the collection of income

tax would be as efficient as it is if withholding were contingent on evasion.

Another argument for withholding at the source is that the obligation to support one's children is a paramount responsibility. As such, it makes sense to guarantee the payment of this obligation by universal automatic withholding. To the children, the ensuing regularity and stability of payments mean unmeasurable security. Here the best interest of the child is seen as overriding the potential preference of the non-custodial parent for privacy.

Finally, there is the matter of practicality. Noncustodial parents who have defaulted for a few months may have spent the money for other purposes and often cannot afford to pay back the arrearage. Most important, empirical evidence shows that 70 percent of noncustodial parents become delinquent within three years. No society profits by making such a large proportion of a subgroup into lawbreakers. Uniform automatic withholding renders the system more efficient, convenient, and humane than a process triggered by nonpayment. This is one area where the full model of taxation should be applied for all its advantages.

D. Assuring Payments

The final major policy issue faced by many governments is whether the government itself has a role in paying support benefits, and what form the benefits should take. The need to consider this question arises because, even with a numeric standard for private payment in place, many noncustodial parents simply do not have the resources to pay for a minimum level of sustenance for their children. Also, no matter how much

better a system performs in collecting from noncustodial parents, there is bound to be some slippage. In this area Sweden leads the world in providing advance maintenance benefits.

The single most important argument for an assured benefit is that it improves the economic security of single mothers and their children. When combined with earnings, an assured benefit lifts many single-parent households out of poverty and removes them from welfare. An assured benefit reduces the risk to middle-class children whose noncustodial parents become unemployed or unable to work. In such cases, child support falls only to the socially assured level, not to zero. In addition, because the assured benefit, unlike welfare, is not reduced dollar for dollar as earnings increase, it promotes work and independence.

Finally, an assured child support benefit contingent on the establishment of paternity creates an incentive for unwed mothers to identify and help locate the fathers of their children.

There are naturally objections to the idea of assured child support. Some see it as an unwarranted extension of government responsibility. The potential cost is probably the biggest concern. Finally, many may view the assured benefit as an extension of welfare under a different name.

The government interference argument is one of conflicting values: Does society believe that the increase in economic security of children warrants the extension of public activity? The question of cost, however, is an empirical one that can be and has been partially answered by research.

Our estimates indicate that if only 70 percent of what noncustodial parents would owe under the Wisconsin percentage-of-income standard were collected, a zero-cost federal program would reduce national AFDC case-loads by over half and would reduce poverty among children eligible for child support by about 40 percent.

Even if one accepts the government's role in subsidizing child support, the assured benefit program is not the only means available. An alternative, adopted by the United States in 1984, is to share with eligible families the AFDC savings resulting from increased collection of private child support by disregarding the first \$50 per month of private child support payments when determining AFDC benefits.

Whereas the assured benefit encourages work and reduces welfare dependency, this \$50 set-aside makes welfare and nonwork more attractive. The assured benefit encourages work because, unlike welfare, it is not reduced dollar for dollar as earnings increase. It is designed to supplement rather than replace earnings. In contrast, the set-aside raises by up to \$50 a month the amount of income a family on welfare can receive without working.

This difference between an assured benefit and the U.S. and Australian set-aside within welfare is reflected in the number of benefit recipients who work. Only a small proportion of welfare recipients in the United States and Australia work. Swedish custodial mothers, on the other hand, are not faced with such incentives, although a large number of them benefit from the assured benefit of advance maintenance. Almost all of them are in the labor force.

Estimates for the state of Wisconsin indicate that if costs and poverty reduction are held constant, improved child support collections combined with an assured benefit will reduce AFDC caseloads by three times as much (22 percent rather than 7 percent) as improved child support collections combined with the set-aside. The custodial parents who are induced to leave AFDC by the assured benefit program increase their work efforts on average by 1,100 hours per year and their earnings by \$3,500. In terms of the work and independence of low-income custodial families, the assured benefit approach is clearly superior to the set-aside strategy.

E. For the Poor Alone?

Common to all of the issues raised above is a critical subissue: Should child support strategies apply to the poor alone or to all families eligible for child support regardless of income. As yet, in practice no clearcut answer has emerged. With respect to benefits, European countries have displayed a preference for universal provision of child allowance, health care, and more recently assured child support benefits. With respect to the collection of child support, however, policy is for the most part more targeted on the poor and/or those receiving benefits. In marked contrast, the United States has displayed a preference for income-tested benefits. During the Reagan administration, benefits have become even more targeted. Yet, even as public child support benefits became more targeted, the public enforcement services of private child support obligations have become decidedly more universal. In this section, therefore, we explore the pros and cons of establishing separate child support policies for the poor.

One argument for providing benefits only to the poor is that it is cheaper. The greater is the number of people who receive benefits, the more costly the program will be to nonbeneficiaries. Programs that provide benefits to everyone, such as public education, will be more costly to upper-middle-income and upper-income people than programs that provide similar benefits only to the poorest. Thus, because universal programs cost them more than welfare programs, the narrow self-interest of citizens with above-average incomes will lead them to favor welfare programs. Only if a universal program offers substantial advantages to people with above-average incomes will the extra costs be worth it to these people.

An argument for limiting child support enforcement services to the poor--or at least to beneficiaries of government benefits--is that public intervention hinges on the public stake in private child support that arises out of public provision. Clearly how much private child support a noncustodial parent is ordered to pay and actually pays is of direct material interest to taxpayers if they are sharing the cost of raising the child. But what is the public stake in nonsubsidized cases?

The argument for universal provision of enforcement services begins with the observation that there is a public interest in children of all income classes. This is the justification for state regulation through legislation and court review in every country. The issue is therefore not whether there should be public intervention. That issue was decided in all OECD countries long ago. The issues are more mundane. Should courts be guided by very general considerations or by presumptive standards? Should child support payments be withheld from wages in response to delinquency or immediately? Should child support payments routinely

be paid to a government agency or not? And, most pertinent to this section, should the answer to these policy issues be the same or different depending upon whether or not poverty or a government benefit is involved.

With respect to cost, the more pervasive a problem is, the greater is the case for resolving it with a universal program. When the problem affects the middle- and upper-middle-income groups, they may have more to gain from a universal than a welfare program. Poverty is the most extreme manifestation of economic insecurity. But economic insecurity is not confined to the poor. Unemployment, for example, is most severe for the poorest, but it is often severe even for middle-income and upper-middle-income Americans. The fact that Unemployment Insurance provides benefits to all Americans rather than to only the poorest reflects the pervasiveness of the problem of unemployment and society's commitment to reduce the economic insecurity of the unemployed population regardless of their poverty status. That is why all OECD nations have an unemployment insurance program. Similar arguments exist for Old Age Insurance and Survivors' Insurance.

Are the economic insecurity and poverty of mother-only families pervasive social problems or are they confined to a small segment of our poorest citizens? The evidence clearly indicates that they are pervasive in the United States. Nearly half of such families are poor. Most of the others have suffered large drops in income but do not qualify for welfare benefits. It is hard to avoid the conclusion that welfare is no substitute for a program that would provide support for all single mothers.

Despite the fact that women obviously have a disproportionate interest in how such families are treated, this is not just a women's issue in the United States. Nearly one of every two fathers who has a daughter today can expect her to head her own family. Similarly, one of two fathers can expect his child to live in a mother-only family before growing up and leaving home. And nearly one of every two men in the next generation will grow up in such a family. Because any of us could be affected, it may be in the best interest of people of all income levels to provide some benefit and services to all mother-only families rather than to only the poorest. If a man's daughter, for instance, runs the risk of divorce but not of poverty, it may be cheaper for him to pay more taxes for an efficient, universal, child support collection system than to pay smaller taxes for a system that serves the poor alone. For in the latter case, he may be forced to provide the only support his daughter and her children will receive (with those children's father getting off scot-free).

Finally, a system of private child support with rigorous public enforcement that applies to only those receiving a public subsidy divides society along class lines. The less well-off members of society are dealt with administratively via formula, withholding, and routinization while the more well-to-do are routed to the courts and allowed to make private arrangements. Income testing of public child support benefits has the same effect. Rather than integrating poor single mothers into the social mainstream, the AFDC program in the United States has segregated them. They deal with a special welfare bureaucracy and are discouraged from working by unconscionably higher marginal tax rates than the rest of the population confronts.

Notes

¹Larry L. Bumpass, "Children and Marital Disruption: A Replication and an Update," Demography, 21 (February 1984): 71-82.

²See the introductory chapter in Alfred J. Kahn and Sheila B. Kamerman (eds.), Child Support: From Debt Collection to Social Policy (Newbury Park, Calif.: Sage, 1987).

³Harry O. Krause, Child Support in America: The Legal Prospective (Charlottesville, Va.: Michie, 1981).

⁴U.S. Bureau of the Census, "Child Support and Alimony, 1985," Current Population Reports, Series P-23, No. 152, 1987.

⁵David L. Chambers, Making Fathers Pay: The Enforcement of Child Support (Chicago: University of Chicago Press, 1979).

⁶For more evidence on the inequity in award determination, see K. White and T. Stone, "A Study of Alimony and Child Support Rulings with Some Recommendations," Family Law Quarterly, 11 (1976): 75-85; L. Yee, "What Happens in Child Support Cases," Denver Law Journal, 57 (1979): 21-68.

⁷Ann Nichols-Casebolt, Irwin Garfinkel, and Patrick Wong, "Reforming Wisconsin's Child Support System," Institute for Research on Poverty Discussion Paper no. 793-85, University of Wisconsin, Madison, 1985, Table 3.

⁸Ibid.

⁹Irwin Garfinkel. Utilization and Effects of Immediate Income Withholding and the Percentage-of-Income Standard: An Interim Report on the Child Support Assurance Demonstration, Institute for Research on Poverty Special Report no. 42, University of Wisconsin, Madison, 1986.

¹⁰Chambers, Making Fathers Pay.

¹¹Ibid.

¹²See Krause, Child Support in America; and Chambers, Making Fathers Pay.

¹³Irwin Garfinkel and Marygold Melli; Child Support: Weaknesses of the Old and Features of a Proposed New System, Vol. 1, Institute for Research on Poverty, Madison, 1982; Krause, Child Support in America; and Chambers, Making Fathers Pay.

¹⁴U.S. Bureau of the Census, "Child Support and Alimony, 1985."

¹⁵The commissioners, in 1907, directed a committee on marriage and divorce to study the problem. The committee concluded that family desertion should be treated as a crime. Therefore, it proposed a Uniform Desertion and Nonsupport Act to make desertion and nonsupport extraditable offenses.

The law, which was approved in 1910, was not effective. On the one hand, it was too drastic because it provided no civil remedies, only criminal prosecution; on the other hand, it was inadequate because it provided no interstate enforcement procedures for an increasingly mobile population.

¹⁶U.S. Department of Health and Human Services, Office of Child Support Enforcement, Child Support Enforcement Statistics Fiscal Year 1985, Vol. II, Table 1, and Child Support Enforcement, Fifth Annual Report to the Congress for the Period Ending September 30, 1980, Table 2 (Rockville, Md.: National Child Support Enforcement Reference Center).

¹⁷U.S. Bureau of the Census, Current Population Report, Child Support Supplement, 1979-1984.

¹⁸Soren Kundlund, "Sweden," in Alfred J. Kahn and Sheila Kamerman (eds.), Child Support.

¹⁹Marygold S. Melli, Child Support: A Survey of the Statutes. Institute for Research on Poverty Special Report no. 33, University of Wisconsin, Madison, 1984.

²⁰The relevant bills currently awaiting action in the 2nd Session of the 100th U.S. Congress include the Family Security Act by Senator Daniel Patrick Moynihan, Senate Bill S1001, House Bills H.R. 1604 and H.R. 1720.

²¹Estimates of private child support are taken from U.S. Bureau of the Census, "Child Support and Alimony, 1985." Estimates of public child transfers were derived from Irwin Garfinkel and Sara McLanahan, Single Mothers and Their Children: A New American Dilemma (Washington, D.C.: Urban Institute Press, 1986, Table V-2). Though the estimates are not exactly comparable--private child support payments include those to remarried mothers whereas the public transfers are limited to female heads--the orders of magnitude are right.

²²The proportion of AFDC families receiving private support is obtained from Child Support Enforcement Statistics Fiscal Year 1985, Vol. II, Tables 21 and 23. The 10 percent figure is likely to be a somewhat underestimate, however, because the government is unlikely to have collected any amount for families that go on welfare for only one or two months and then become self-sufficient.

²³Isabel Sawhill, "Discrimination and Poverty among Women Who Head Families," Signs, 2 (1976), 201-211. The figure \$3,200 is our adjustment to 1985 dollars. In the original paper the number is \$1,000 in 1968 dollars.

²⁴Irwin Garfinkel and Philip K. Robins, "Child Support, Work and Welfare Dependence," in The Effect of Economic Status on the Family; The Effect of the Family on Economic Status. Research proposal submitted to the Assistant Secretary of Policy and Evaluation, Department of Health and Human Services, by the Institute for Research on Poverty, Madison, Wisconsin, 1987.

²⁵The court is required to use the percentage standard unless it finds, by clear and convincing evidence, that the standard would be unfair to the child or one of the parents. The reason for that finding must be documented in the record and may include extraordinary travel expenses for visitation, need of both parents for self-support at a subsistence level, and the presence of other legal dependents of either parent. See Wisconsin Statutes §767.25 (lj) and (lm), 1985 Wisconsin Act 29.

²⁶Lee Rainwater, Martin Rein, and Joseph Schwartz, Income Packaging in the Welfare State (Oxford: Clarendon Press, 1986), p. 109. According to these researchers, there are also significant differences in the receipt of private child support in the three countries: 35 percent of U.S. female-headed families with children receive some private support compared to only 13 percent in Sweden and 23 percent in Britain. While these figures reinforce the impression that European countries place more emphasis on the public versus private system of support, we believe that these figures may not be reliable because, given the collection mechanism of child support in these countries, there may be an underreporting bias in private transfers which is correlated with the receipt of public benefits.

²⁷Council of Europe, Parental Responsibilities, Recommendation No. R(84)4 Adopted by the Committee of Ministers of the Council of Europe on 28 February, 1984, and Explanatory Memorandum (Strasbourg: Council of Europe, 1984), p. 7.

²⁸See Irwin Garfinkel and Annemette Sørensen, "Sweden's Child Support System: Lessons for the United States," Social Work, 27 (1982): 509-515. See also "Income Maintenance for One-Parent Families," International Social Security Review, 28 (1975): 35-79.

²⁹Kundlund, "Sweden."

³⁰The plan is discussed in "New Zealand--The Liable Parent Contribution Scheme," Social Security Journal (June 1982): pp. 48-50.

³¹Peggy G. Loopman-Boyden, "Mothers, Fathers and 'Big Brother' in New Zealand: Change in New Zealand Families and the Policy Response," Final Papers, the 20th International CFR Seminar on Social Change and Family Policies, Australian Institute of Family Studies, Melbourne, 1984.

³²Garfinkel and Sørensen, "Sweden's Child Support System."

³³Peter McDonald and Ruth Weston, "The Data Base for Child Support Reform," Workshop on Child Support Issues, Social Justice Project, Australian National University, Canberra, 1986.

³⁴Australian Department of Social Security, "Maintenance and Social Security," Unpublished Working Paper by the Policy Analysis and Development Branch, Canberra, August 1985.

³⁵See Australian Cabinet Sub-Committee on Maintenance, Child Support: A Discussion Paper on Child Maintenance (Canberra: Australian Government Publishing Service, 1986).

³⁶The numeric guidelines in Sweden began in 1978. They are presumptive but not binding for recipients of advance maintenance.

³⁷According to Peter Doppfel, Denmark and Norway were the only nations with a numeric support formula before World War II. See his chapter, "Child Support in Europe: A Comparative Overview," in Kahn and Kamerman, Child Support.

³⁸Doppfel, "Child Support in Europe."

³⁹Casper Wiebrens, "The Netherlands," in Kahn and Kamerman, Child Support.

⁴⁰See Freda M. Steel, "Maintenance Enforcement in Canada," Ottawa Law Review, 17 (1985): 491-523, for a brief history.

⁴¹For comparative details on European systems of public child support other than advanced maintenance, see Jonathan Bradshaw and David Piachaud, Child Support in the European Community (London: Bedford Square Press, 1980).

⁴²The description of the Swedish advance maintenance program is drawn from Garfinkel and Sørensen, "Sweden's Child Support System."

⁴³Council of Europe, Payment by the State of Advances on Child Maintenance, Recommendation No. R(82)2 Adopted by the Committee of Ministers of the Council of Europe on 4 February, 1982, and Explanatory Memorandum (Strasbourg: Council of Europe, 1982).

⁴⁴Alfred J. Kahn and Sheila B. Kamerman, Income Transfers for Families with Children: An Eight-Country Study (Philadelphia: Temple University Press, 1983), Chapter 6.

⁴⁵Council of Europe, Payment by the State.

⁴⁶Ibid., p. 11.

⁴⁷Australia has a policy akin to but more generous than the U.S. \$50 set-aside within welfare. In Australia, the first \$30 per week of child support plus \$6 per week per child, plus one-half of the remainder is not

counted in determining social assistance benefits. More than three-quarters of assistance recipients, however, receive no private child support. And among the one-fourth who do, the overwhelming majority do not receive enough to cause a reduction in their benefits. See "Maintenance Payment and Their Relationship to Commonwealth Income Support Payments," Social Security Journal (June 1983): pp. 44-52.

⁴⁸Thomas McDonald, James Moran, and Irwin Garfinkel, Wisconsin Study of Absent Fathers' Ability to Pay More Child Support, Institute for Research on Poverty Special Report No. 34, Madison, Wisconsin, 1983.

⁴⁹Donald Oellerich and Irwin Garfinkel, "Distributional Impacts of Existing and Alternative Child Support Systems," Policy Studies Journal 12 (September 1983): 119-130.

⁵⁰Michael R. Henry and Victoria S. Schwartz, A Guide for Judges in Child Support Enforcement, 2nd Ed. (Washington, D.C.: U.S. Department of Health and Human Services, Office of Child Support Enforcement, 1987, Chap. 6).

⁵¹Robert I. Lerman, "Child Support and Dependency," unpublished Report prepared for the Assistant Secretary for Policy and Evaluation, Department of Health and Human Services, Washington, D.C., 1987 (June).

⁵²See note 20.