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Technical Fixes as Challenges to State Legitimacy: Australian Separated Fathers’ Suggestions for Child Support Policy Reform

This paper assesses fathers’ evidence presented to an Australian inquiry into the child support scheme. We examine these data in order to address how fathers’ proposed child support policy solutions compare against Eekelaar’s critique of parents’ moral responsibilities to children and his identification of three substitute social bases for parents’ continued support. We find that despite the inquiry’s technical remit, fathers’ solutions challenged the very basis of child support as maintaining, reinforcing, or redressing their responsibilities to children. Here, we illustrate that such procedures may be unable to contain fundamental challenges to state legitimacy when dealing with contested social issues.

Keywords: Australia; child support; fathers; social problems; state legitimacy

Introduction

As Australia embarks on its third parliamentary review of the child support system in two decades, this paper examines separated fathers’ submissions to the most recently completed inquiry to identify the moral and social bases of their claims. We examine fathers’ expressed grievances, as their enduring frustrations have directly prompted each inquiry (Fehlberg and Maclean 2009; Murphy 2019; Vnuk et al. 2015), despite research identifying that their “discontent has continued even though law and policy shifts ... have generally favoured fathers” (Fehlberg and Maclean 2009, 11; see also: Young 2005; Vnuk et al. 2015). We contend that the enduring frustration expressed by some fathers exists because they

fundamentally disagree with child support as a legitimate state instrument. These grievances extend well beyond complaints regarding child support's technical administration as parliamentary inquiries and policy reform seeks to improve (Li 2007).

To examine the basis of fathers' grievances, our analysis engages with discussions of the state's legitimacy to compel parents to support their children (Eekelaar 1991a; 1991b). The question that our analysis addresses is 'how do fathers' proposed policy solutions compare against the social justifications for child support policy?' In doing so, our analysis extends research that has located men's frustration with the meaning that child support holds for them as fathers (Cozzolino and Williams 2017; Fogarty and Augustinos 2010; Natalier and Hewitt 2010; Skinner 2013). Rather, we locate fathers' grievances with the legitimacy of the state to mandate their continued breadwinning role post-separation.

We begin by summarizing the principles upon which parental obligations and child support policy are based, before describing child support policy and the nature of the 2014-15 inquiry. We then outline critiques of the capacity of technical reforms to assuage social concerns before turning to present our methods and results.

Parental Obligations and Policy Principles

Our analytical subject, child support, is money paid typically by a non-resident parent to a resident parent to support children following separation (International Network of Child Support Scholars 2019). In Australia, like elsewhere, payments reflect and reference a deeply gendered division of labor that positions one parent as the breadwinner, typically the father, and the other parent, typically the mother, as the caregiver. It is the forced continuation of

fathers' breadwinning role following separation that we contend underpins their ongoing opposition.

Child support policy in Australia, like elsewhere, compels non-resident parents to fulfil their financial responsibilities to children based on a legal or institutional 'authority'. Eekelaar (1991a) argued that the setting of such obligations is often assumed to be premised on parents' 'moral duty' to a particular child, attached to the fact of parenthood. However, Eekelaar (1991a; 1991b) took issue with this assumption, providing an insightful critique of the social basis of state interventions in determining parental rights and responsibilities. While these critiques took place in the UK in the early 1990s, Eekelaar's in-depth analysis is unrivalled and remains highly pertinent to child support policy internationally.

Using the example of the state's legal duties towards the care of children, Eekelaar (1991b) outlines two conceptualizations of 'parental responsibility' relevant to child support. First, parental responsibilities take precedence over parents' rights and that these responsibilities are owed to children, rather than for the parent's benefit. These responsibilities are "a collection of duties and powers which aim at ensuring the moral and material welfare of the child" (1991b, 38), such as child support. Second, parental responsibility is to be enacted by parents, not by other entities, such as the state. Eekelaar (1991b, 43) notes a shift in emphasis from the latter conceptualization to the former in the UK, underpinned by Thatcher's conservative ideology that "parenthood is for life". The UK's emerging administrative child support scheme applied this ideology and, like Australia and elsewhere, states ensured that parental financial responsibilities carried on post-separation. In the UK, a moralizing discourse also emerged around notions of fatherhood, serving to legitimize increasing state involvement in private family affairs.

Eekelaar (1991a, 340), however, queried the moral premise of such policies, asking, “what obligations, if any, does the very fact of parenthood impose on parents towards their children?” He problematized parents’ ‘moral responsibility’, describing moral philosophical arguments as inadequate in explaining or determining parental obligations. For example, if a father knows that the welfare state, mother, or other provider such as a step-father, were to assume responsibility for his child’s well-being (even if that support was lower than what he had provided previously), such a father defaulting on child support may be acting morally, but is still regarded as failing his children by society. This, Eekelaar (1991a) argued, demonstrates a transgression against the community’s social rules, rather than against a moral obligation to an individual child. Thus, under social rules, a separated father cannot abrogate his responsibility, even if he feels morally able to do so as his children will not be left destitute. Eekelaar (1991a, 353) concludes that:

Once the primary moral duty is understood: that the community is obliged to ensure the well-being of all its children, not because or to the extent that this may be in the interests of the adult generation but because cardinal moral principles ordain the nurturing and promotion of every individual human life, the community can endeavour to produce the mix of social rules which best fulfils the obligation.

To this end, Eekelaar (1991a) identified three social justifications for states to compel separated parents to contribute to their children:

- 1) Maintaining: parents should be compelled to devote a similar proportion of resources to children following separation, to the extent possible given their financial responsibilities to other children. In other words, maintaining children's right to share in their parents' standard of living;
- 2) Reinforcing: parents should be compelled to contribute towards their children's costs that are being met by others (i.e. mothers or the benefit system), so as not to undermine state authority in allocating parental responsibility;
- 3) Redressing: earning parents should be compelled to provide payments to the caring parent to redress the financial imbalance suffered by the caring parent as a result of their parenting role. In other words, children's living standards should not be unduly impacted by the reduced earning capacity of their resident parent.

The third point is particularly contentious when applied to contemporary child support, as it was made in 1991 when gender roles were more distinct. In addition, this justification is not to be confused with spousal maintenance. While child support is *for* children, it is not paid *to* children. Rather, it is paid to the caring parent for the child's upkeep. This justification, therefore, gives recognition to the opportunity costs incurred by mothers due to their primary responsibility for care and simultaneously maintains the breadwinning role for fathers. Intentionally or not, this contemporaneously justifies the status quo of gendered post-separation parenting.

According to Eekelaar's (1991a) framework, the state can legitimately enforce child support obligations on the basis of these justifications, and all three feature within the Australian formulaic scheme. First, in Australia and elsewhere, including nearly all United States jurisdictions (Meyer 2012), New Zealand (Fletcher 2016), the UK (Wikeley 2006), the

Netherlands (Curry-Sumner and Montanus 2012) and Korea (Chung and Kim 2019), the rules apply a continuity of expenditure principle based on both parents' incomes and relative capacity to support the child (taking account of obligations to other children).

Second, the emphasis on reinforcing private parental responsibility is embedded in rules that recompense the state for benefit outlays on lone mothers, and within the formula that recognizes the cost of care. Again, across countries, states recoup or restrict benefit outlays on the basis of child support money received. We know this occurs extensively, such as in Australia, the United States, the UK, Ireland, Iceland, Finland, New Zealand, Germany, and Korea (Meyer 2012; Wikeley 2006; Crosse and Millar 2019; Eydal and Fridriksdottir 2012; Hakovirta and Hiilamo 2012; Skinner et al 2017; Hakovirta et al 2019; Chung and Kim 2019).

Third, while no longer acknowledged explicitly, the Australian child support formula was originally designed to compensate children for the consequences of the opportunity costs suffered by the resident parent as a result of their caring work (Child Support Consultative Group 1986). In Australia, this principle has endured despite both parents' incomes being included in the revised formula, as mothers' earning capacity is typically lower than fathers' due to the opportunity costs of providing care that they disproportionately experience (de Vaus et al. 2017; Bankwest Curtin Economics Centre and the Workplace Gender Equality Agency 2016). Internationally, some advanced child support systems are moving towards incomes shares models, although gendered opportunity costs persist. Irrespective of moves towards the 'equal treatment' of parents' incomes (Cook and Skinner 2019), most countries either inadvertently or explicitly take account of the opportunity costs visited on the caring parent, usually the mother. For example, in the United States (Meyer 2012) Iceland (Eydal

and Fridriksdottir 2012), the UK, Spain, Germany (Hakovirta and Jokela 2018; Hakovirta et al 2019), Ireland (Crosse and Millar 2019), and Korea (Chung and Kim 2019), where mothers' incomes are not normally included, this occurs explicitly. Gender equal treatment of incomes is more evident in Finland, Sweden, Norway (Eydal and Fridriksdottir 2012; Hakovirta and Hiilamo 2012), and the Netherlands (Curry-Sumner and Montanus 2012), although – like Australia – fathers' capacity for higher earnings influences the amounts due.

Taken together, despite the revised Australian formula taking equal account of mothers' and fathers' incomes, it replicates the male breadwinner model. Payments remain typically transferred by a non-resident father with minimal care of children to a resident mother with substantial care-time (Qu et al. 2015). Even when fathers share care, mothers are unlikely to earn on an equal basis due to the persistent gender wage gap that stems from the gendered nature of care. As unpalatable as it might be, a gendered division of labor endures – evident in the time parents spend doing activities (OECD 2019), but also in the way heterosexual couples 'do gender' and how gender borders become established in families (Lyonette and Crompton 2015). Child support partly compensates children for this, via payments made to mothers as their primary carers.

Australian child support reforms

Prior to the introduction of Australia's administrative child support system in 1988-89, courts made discretionary determinations on child support amounts. Here, individual circumstances and capacities were taken into account and fathers could 'have their say' within court proceedings. Such court-based systems operate in the majority of countries and in most of the United States (Meyer 2012; Hakovirta and Jokela 2018). However, poor access and child

support compliance in the Australian court-based system gave way to an administrative regime. Implicitly referencing Eekelaar's (1991a) three justifications, the original Australian administrative system was premised on expectations that:

- Non-custodial parents should share the cost of supporting their children according to their capacity to pay;
- Adequate support be available for all children of separated parents;
- [State] expenditure be limited to what is necessary to ensure that those needs be met;
- The incentive to work be encouraged; and
- The overall arrangements should be simple, flexible, efficient and respect personal privacy (Cabinet Sub-Committee on Maintenance 1986, 14).

These expectations impose an administrative regime onto fathers who otherwise have little engagement with the state benefit system. Further, the imposition of these expectations onto fathers occurs without their agreement on the underpinning social principles.

We contend that the imposition of these principles and obligations serves men's ongoing frustration. However, increasing the efficiency or specificity of the state's administrative solution cannot remedy fathers' fundamental concerns. As such, despite widespread changes which, broadly speaking, benefitted high-income payers (Fehlberg and Maclean 2005; Young 2005), some fathers have remained aggrieved.

The 2014-15 Child Support Inquiry

The House of Representatives Standing Committee on Social Policy and Legal Affairs (HRSCSPLA 2015) inquiry has been described as a highly politicized process that was “more about placating interest groups than about developing policy” (Vnuk et al. 2015, 157). However, at the same time, the inquiry was presented as a depoliticized, administrative function to “make the CSP [child support program] a more sophisticated and agile program” (HRSCSPLA 2015, 2). It is in the space between interests and administration that we argue men’s frustrations lie.

The inquiry terms of reference covered: the collection and payment of child support; arrears and overpayments; system flexibility and whether it was keeping pace with changing family circumstances; links between Family Court decisions and child support; and provisions for high conflict families. A particular interest of the committee was in “assessing the methodology for calculating payments and the adequacy of current compliance and enforcement powers for the management of child support payments” (HRSCSPLA 2015, xi). As such, while the terms of reference were quite broad, they sought specifically to interrogate the formula, its effects, and effectiveness.

Interested parties were directed to describe their suggestions for reform only in terms of the operation of the child support scheme. However, the state’s direction did not fully constrain men’s accounts of their fundamental grievances. While for the committee it was taken as given that non-resident parents have a financial obligation to support their children following parental separation, we argue that for some fathers, it was not. We argue that despite its technical remit, solutions from the HRSCSPLA inquiry were unlikely to appease fathers’ frustrations, the reasons for which we now turn to explain.

State Legitimacy and the Management of Social Problems

Stone (1989) takes issue with the seemingly apolitical ‘discovery’ of policy problems for reform, such as those identified for examination by the HRSCSPLA. Rather, they and others (Li 2007; Jamrozik and Nocella 1998) contend that the identification of policy problems is deeply political. Vnuk and colleagues (2015) make similar, empirical observations about the politicized nature of the establishment and conduct of the 2014-15 inquiry. Given the political nature of problem identification, the state also has an interest in limiting the identification of problems to those that it can manage (Stone 1989). By rendering ‘social’ issues as technical concerns (Jamrozik and Nocella 1998; Li 2007), policy problems can be reduced to manageable administrative functions. The functions of an administrative regime then limit subsequent discussion of the problems and their solutions to within this technical remit (Li 2007).

Returning to child support, the social problems of the gendered division of labor and resultant child poverty in separated families were rendered technical by a formula that quantified and allocated payments from breadwinners to caregivers. The child support system provided a manageable, technical response to these social problems and in doing so, contestation over the original nature of the problem was removed and deemed beyond the scope of subsequent inquiries. As the first review of the child support scheme noted in 1992:

The debate now is not whether child support should be assessed by a formula but whether the formula in Australia is satisfactory or whether it can be improved. The debate now is not whether child support obligations should be enforced through the Taxation Office but

whether its procedures need to be improved so as to become more efficient and effective (Child Support Evaluation Advisory Group 1992, iv).

However, rendering social problems technical does not mean that contestation over the nature of social problems and their solutions ceases to exist (Li 2007). Here, Eekelaar's (1991a) assessment of the social bases of child support suggest that there may be ongoing divergences between what fathers and policymakers contend *should* occur with respect to the financial support of children post-separation. It is contestation over the nature of the problems with child support, as expressed in aggrieved fathers' proposed solutions to the inquiry's technical remit, which we examine here.

Methods

Our data are derived from two of the four procedures through which members of the public could engage with the HRSCSPLA inquiry, including: (1) written submission; (2) community statements; (3) public hearing witness testimony; or (4) an anonymous online survey. From the outset, we excluded the survey, as its anonymous nature made it impossible to discern the identity of submitters or validity of the responses (Vnuk et al. 2015). We intended to include the public hearing testimony, but later excluded these. While three of the four people called as witnesses were fathers, it became apparent on reading their testimonies they were giving evidence as a member of a fathers' rights or advocacy group. We excluded these submissions as the claims were made within the context of ongoing political advocacy, as were the written submissions of men's rights groups, which we also excluded. Whilst it was not possible for us to discern whether the written submissions and community statements came from individual

fathers who were also members of such groups, our analytical interest here was on how individual fathers chose to express their own concerns and solutions.

For our analysis, copies of the 130 written submissions were assessed to determine whether they were submitted by an ‘individual’ member of the public or an organization. Of these, seventy-five were from individuals, of which fifty-five self-identified or were identified by the research team as being made by fathers. These fifty-five submissions were included in our analysis. Within the inquiry documentation, each submission was assigned a sequential number to protect individuals’ privacy, which we use as identifiers in our findings.

The inquiry held thirteen public hearings, of which eight provided time for individuals to make three-minute statements. Transcripts of these statements were included within the Hansard of each hearing, with speakers identified by their first name. One hundred and five members of the public made statements, sixty-five of which were identified as made by fathers. In total, our analysis included fifty-five written submissions and sixty-five community statements.

Our study is grounded in a feminist methodological tradition (Bacchi 2009b; Kantola and Lombardo 2017), and thus adheres to interpretivist qualitative research standards (Guba and Lincoln 1994; 1989; Lincoln and Guba 1985). Within this tradition, we sought to establish the rigor of our interpretations by providing readers with sufficient information to make their own assessments of the veracity of our claims, especially given the nature of our data precluded participant verification processes (Jenson 2008). We also provide accounts of the Australian context and our conceptual frames to allow readers to discern how and to what other contexts our findings may apply.

With respect to the limitations of the pre-existing data, first, the different contexts in which prepared written statements and three-minute statements were made meant that was considerably less depth provided in the latter. In addition, there is no documentation on what basis individuals were invited to make community statements, or if the process was open to all attendees of the inquiry hearing. Despite this ambiguity, we included fathers' statements in our dataset, as we believed that these may provide concise insights into the issues they experienced, as many did. However, while informing our analysis and covering similar issues as the written submissions, fewer community statements are cited as exemplars in our results, as we instead opted for more detailed accounts.

Second, as the data came from a government process unrelated to research, we are unable to provide information about the demographics of fathers, their heterogeneity or representativeness, or whether fathers making statements also submitted written testimony. It is likely that fathers with the most grievances were more motivated to engage with the inquiry. Thus, we do not claim the results are indicative of all fathers' experiences, but rather provide an articulation of extreme evaluations of the problems and proposed solutions. Interviews with fathers (see for example Cozzolino and Williams 2017; Natalier and Hewitt 2010; Skinner 2013) or other documentary analyses of fathers' diaries or letters to members of parliament, for example, may reveal other sets of problems and solutions that lie beyond our scope.

Analysis

Our analytical strategy is 'abductive' (Shank 2008) in that we engaged in a recursive dialogue between the data, our interpretations, and the literature, scrutinizing and refining our

interpretations at each stage. First we inductively discerned themes, but then subjected these to further refinement by drawing on additional analytic methods and the literature, in particular Eekelaar's (1991a; 1991b) framework. We began by reading and inductively coding the data using the N'Vivo qualitative data management software. Guided by Barbour's (2014) approach to frame analysis (a derivative of thematic analysis) we focused on how representations of the issues were discursively packaged together. Our attention focused on fathers' suggested improvements and their framing of the problems that these would remedy, which we identified generally as accounts of injustice. As such, our analysis focused not only on fathers' policy solutions, but also what these signified.

At the conclusion of this initial process, we identified two overarching thematic domains, namely: the unfairness of the existing formula; and solutions proposed to fix it. Given the breadth of data generated by the inquiry, we have reported the results of the first domain separately (Cook and Skinner 2019), although we acknowledge that these frames are mutually reinforcing and cannot be completely disaggregated. The following methods, however, describe our treatment of the data contained within the second thematic domain.

Following Barbour (2014), we inductively coded fathers' solutions into the following four types: (1) excluding particular income; (2) oversight of expenditure; (3) recognition of the costs of children; and (4) fairness in taxation. During this categorization, we abductively reflected upon the context in which fathers' solutions were offered, referencing the technical nature of the inquiry and theories of the technical management of social problems (Jamrozik and Nocella 1997; Li 2007; Stone 1987). Rather than conclude our analysis with an account of the four types of fathers' solutions, we sought to understand what social problems their solutions sought to remedy (Bacchi 2009a).

To delve deeper into the causes of fathers' grievances, their four types of solutions were subject to interpretive methods of policy analysis to draw out 'meta-cultural frames' (Rein and Schon 1993). Such frames comprise broad, culturally shared systems of belief that shape how the world can be understood, discussed, and managed. By examining fathers' four solutions and the problems they implied (Bacchi 2009a), a common meta-cultural frame of contestation over the parental obligations set by government was identified. Our attempts to interpret and make sense of this contest then led us to review Eekelaar's (1991a; 1991b) critique of state compelled parental responsibility.

After reviewing Eekelaar's (1991a) framework, we returned to the data and refined our findings to foreground the ways in which state authority was being challenged across fathers' four types of solutions with respect to maintaining, reinforcing, and redressing parental responsibilities. Our results follow these three bases of state authority, beginning with fathers' challenge to child support as requiring them to maintain their financial responsibility to children.

Results

Challenging state legitimacy to maintain parental financial responsibility

Regarding the child support formula's rules that maintained parental financial responsibilities, fathers' submissions sought to restrict the income sources that could be included in the formula, and four different ways were suggested. First, some sought to

exclude 'extra' income (overtime, second jobs) in order to improve their financial situation following separation:

If a paying parent takes action to try to improve their living standards – for example, taking a second job or working overtime, et cetera, to improve their own financial situation, they [the CSA – Child Support Agency] are there straight away and take their share of everything so that it is irrespective of what somebody else really needs (Community Statement, Bob).

I could have taken promotions to earn a higher salary but it was not worth the additional sffort [sic effort] after additional child support is factored in (Submission 05).

There is also no incentive for a paying parent to work extra hours, find a better paying job, or to study, to self improve and better their position in the workforce ... As my income increased, proportionally, so too did my CSP's [child support payments], if I had of realised just how much of a proportional increase there would have been, on top of paying HECS [higher education contribution scheme] and the cost of study in accommodation book[s] and travel, I would have chosen not to improve myself (Submission 11).

Second, some suggested that a 'fairer' approach would be to limit the income used to the time of separation:

A fairer child support system would be a system which takes into account earnings and earning capacity of both parents at the time of separation (Submission 74).

The child support assessment rate should be based on what the payer was earning when the separation occurred and then every year the amount should increase by the CPI [Consumer Price Index] or decrease in the unlikely event that the CPI is in negative growth. The only variation should be if the payer becomes unemployed or earns less (Community Statement, Chris).

It seems that these fathers were objecting to state determination of the income sources to be included in the formula on the grounds it was either debilitating post-separation recovery or that it was unfair in some way. But such arguments for excluding ‘additional’ income or anchoring incomes at the point of separation also implicitly challenge the state’s role in *maintaining* the children’s right to a share in their fathers’ standard of living post-separation. Similarly, so did the third and fourth set of issues raised within fathers’ submissions, which respectively challenged the use of gross income or sought to tie incomes to an external standard, such as medium, or minimum income or benefits. Regarding gross income, suggestions were that:

Child support should be assessed on income after tax – because these are funds that the income earning parent has to live from. Not assessed before Tax and then paid from monies left after Tax (Submission 117).

Calculation of CS [child support] payments are based on “Gross” income rather than “Net”. This is a MASSIVE concern given the payer may not have received such Gross earnings due to costs incurred (Submission 20).

Here, fathers explicitly objected to the formula being based on earnings that they could not access themselves, either due to tax or costs of employment. While this is a reasonable point, the current use of gross income is largely irrelevant. If net income were used instead, a higher rate of child support would yield the same amount. That is the proportion of parents’ incomes deemed necessary by the state as children’s equitable share.

Regarding tying income to an external reference point, suggestions included:

Child support payments should be capped at the average medium wage. Anything earned over that should be for the person who earns the money to spend on what they want ... I understand that there exists an argument that parent and child are accustomed to a certain lifestyle before they separated so this should be maintained post separation. An assessment based on such a premise is flawed ... Making someone pay more money as they earn more money post separation is criminal (Submission 34).

Perhaps the most equitable and fair approach is to base child support on the long established, successful and sustainable principle of a

safety net. This would be the minimum amount of funding necessary to provide a typical, basic lifestyle (Community Statement, Max).

Cap the rate at 10% per child per yearly income regardless of age (Submission 01).

Undeniably it costs some money to support children, but not that much ... If the government were to abandon trying to impose capacity to pay assessments and focus on parents paying this basic level of support for children, the system could be a whole lot better not just for paying parents but also for parents receiving payments (Submission 15).

Whilst this latter set of proposals could simplify the formula, it would most likely reduce the amount of the child support liability. These statements were also more explicit in objecting to the state's role in *maintaining* the children's ongoing share in fathers' incomes post-separation.

Challenging state legitimacy to reinforce rules of parental obligation

Whilst the objections and solutions described above challenged the state's role in *maintaining* children's share post separation, here the submissions asserted that the rules were illegitimate, as they did not take sufficient account of fathers' own needs.

The current law does not seem to appreciate much that the parent-payer also has a right to live quality life and have fun. Most importantly, the parent-payer may have other financial commitments before the child support issue came into play (Submission 118).

The key principle governing child support arrangements is to maintain the children in a lifestyle to which they have become accustomed. This principle is problematic as it completely ignores the equitable and legitimate needs of the non-resident parent (Community Statement, Mark).

I do not see myself ever being able to afford to purchase a home, and at the end of the working week, after taking rent, fuel, food and living expenses into account I find that at the moment my partner and I are left with roughly \$15 or \$40 of disposable income (Submission 11).

In my situation I pay significantly more in Child Support to my ex-wife, for my daughter, than it costs to raise my 3-year-old son who lives with me. He still has costs (swimming lessons, junior sport, playgroup) but these do not add up to half of what I pay in Child Support to my ex-wife (Submission 126).

What is interesting here is what was included and excluded in the fathers' calculations, and more importantly, their underpinning rationales. In the first excerpt, the father should have enough money left to have quality of life, fun, and be able to pay expenses

incurred pre-separation. In the second, the fathers' needs should be treated equally to his children's. The third specifies rent, fuel, food, and living expenses as unavoidable costs that leave him with insufficient disposable income after child support; while in the fourth, the father does not include unavoidable expenditures such as food and rent, but only discretionary leisure activities in his calculation of what it costs to raise his resident son. As these discretionary items cost less than half of what he provides to his ex-wife, ergo, the additional money must not be spent on or required by the child eligible for child support.

The sentiments contained within these accounts are consistent with the claims presented earlier regarding challenging the state's role in determining income sources and the amount of child support to be paid. But, there are different underpinning rationales here that assert the father's own individual or household needs and how these should be better recognized. It seems the fathers are objecting to the state's *reinforcement* of rules to determine the exact nature of their obligation. State rules were seen as overriding or taking insufficient account of fathers' current needs and desires. This is hardly a novel claim, yet there seems to be no appreciation among these fathers that under a formulaic system, it would be administratively impossible to apply such individualized accounting to each case.

Challenging state legitimacy to redress the financial imbalance of parenting

The last group of suggestions related to concerns over how child support money was spent. Continuing submission number 34's call for assessments to be capped at 'medium' income, in the same paragraph he questioned the cost of children and asked for proof that his payments were indeed being spent on the child:

...If child support is truly just to raise the children, then give more respect to the person paying the money and allow them to know what their money is being sent on, what is wrong with knowing what is being spent on your child? (Submission 34)

Many other suggested improvements to the formula included requests for verification of how the money was spent. Although they varied in detail, each case implicitly asserted that the state-ordered amount was too high, and included the accusation that it was not being spent on children, but on items not approved by the contributing father:

My suggestion to improve things is a simple process which I call PPB – parents pay the bills. Under PPB the parents pay the actual costs for their own real children – that is, they pay the bills in a predetermined proportion (Community Statement, Alan).

A new statement format from the CSA would also show how the payee parent has spent the child support monies that have been given to them by the paying parent. In other words, accountability by the receiving parent in the form of receipts and if necessary, further evidence (Community Statement, Peter).

In addition to requesting receipts so as to reimburse only specific, direct expenditure, some suggested quarantining child support so that only children could access it, or that the father should have direct oversight over what was spent.

The argument of entitlement – that the level of support is warranted even if it is not being spent on a child’s current consumption – would be more palatable if there was some way of quarantining the payment. ... Higher income non-resident parents would be more accepting of these excessive amounts if resident parents were more honest about actual expenditures and were prepared to direct any current surplus towards a child’s non-current needs ... like future tertiary education costs or the costs of a car held via advancement accounts only by the child when they turned eighteen (Submission 12).

The paying parent should be able to notify the CSA and select one of two options 1) “On Trust” or 2) Discretionary for availability of funds to a parent receiving child support.

- 1) “On Trust” means the funds are held On Trust by the CSA ... to ensure the funds are not misused on tobacco, alcohol, gambling, etc. Presently, recipients have full discretion to misuse funds.
- 2) “Discretionary” is the absolute discretion that presently exists. If a paying parent is satisfied that the receiving parent is being responsible, then they can elect “discretionary” which gives them the complete discretion as they have now (Submission 70).

While some of the fathers included items such as housing, utilities, and food, suggestions to provide fathers with direct oversight and control over expenditure were more often limited to ‘child-centric’ goods and services. For example:

The CSA should increase the mechanisms available to payees [sic payers] to provide child support directly as payments for expenses on children. This should include being able to direct invoices for school fees, books, excursions direct to the payer and then recognised when paid. The payer then can see that their hard earned wages are being spent on their children as they choose. Exactly as it would be, if the payer was not in a separated family. The system could be expanded to medical expenses, dental, sports fees, music lessons, etc. Whilst these measures may be administratively complex, they will increase confidence that the system, IS set up to provide support for children, not an ex-spouse (Submission 87).

As these excerpts reveal, what was central to fathers' suggestions was control over the child support money and thus a return to the financial autonomy and authority they may have enjoyed in their relationship prior to separation. This was a challenge to the state's legitimacy, in Eekelaar's (1991a) terms, of compelling them to provide money to the mother to redress the imbalance in parenting. Mothers ought not to have control over child support money, or alternatively fathers should be able to dictate their expenditures. Moreover, it seems in the views of these particular fathers, the state cannot have it both ways. It cannot continue to compel fathers to act as breadwinners post-separation while at that the same time redressing the imbalance in parenting which allows mothers to have full control over how child support money is spent.

Discussion

Our analysis of fathers' submissions contributes to empirical, conceptual, and practical policy literatures. Empirically, and addressing our research question, the evidence provided by aggrieved fathers to the HRSCFCA reveals how their sense of responsibility to pay child support deviated significantly from the social rules, gendered norms, and justifications operated by the state in operating the child support scheme.

Applying Eekelaar's (1991a) arguments, fathers' submissions and statements challenged the state's justifications to *maintain* children's share of parental resources, to *reinforce* separated fathers' obligations and compel them to pay amounts determined by the state, and to use child support as a means to *redress* the parental imbalance in earning capacity and thus financial responsibility for children. The social problem that required the state's intervention to enforce parents' financial responsibilities to children was the gendered distribution of labor. This distribution, and the opportunity costs of care it entails (WGEA 2016; de Vaus et al. 2017), required the continuation of fathers' breadwinning role to redress the lowered standard of living experienced by children in single mother families. However, solving this problem requires structural reform (Cook and Skinner 2019) and thus cannot be solved by technical child support amendments. Indeed, should the state take up fathers' specific solutions, doing so would not solve their problems, but rather undermine the legitimacy of the scheme, as they serve to lessen redress as a justification.

Conceptually, our analysis provides new insight into understanding contested policy issues, and highlights how the seemingly 'depoliticizing' effects of the technical management of social problem is only ever partial (Jamrozik and Nocella 1998; Li 2007). Rather than muting political challenge, our findings reveal how a review of technical settings provided a

means for disaffected fathers to assert a reframing of the problem through critiques of its administrative management.

While the HRSCSPLA terms of reference limited fathers to describing the technical formula, the uptake of such technical rhetoric did not dissolve their political concerns (Li 2007). What fathers thought the child support formula (and hence their responsibility to children) ‘ought to be’ was inevitably going to come out in their evidence, despite these issues being rendered technical and seemingly ‘not up for discussion’. Fathers were able to find space within the terms of reference to couch their fundamental challenges to state legitimacy in technical ways. In the parlance of interpretive policy analysis, these fathers’ understandings of the problems lay outside of state framings of the solutions as lying within the child support formula. However, despite these differences, policymakers are wedded to the technical child support system as:

a central part of Government social policy. It is woven into the fabric of family support, having a strong and dynamic relationship with the family assistance system, family law, and taxation. The Program has been developed and refined over its many years of operation, and enjoys broad acceptance in the community (HRSCSPLA 2015, 1).

By depoliticizing the social issues that child support manages, disaffected fathers have no avenue to explicitly challenge the scheme’s justification. Rather, their grievances – which we contend are misguided as they fail to acknowledge or remedy the gendered social contract that structures their experiences of injustice (Cook and Skinner B 2019) – are couched in unhelpful and unresolvable technical terms.

Practically, the 2014-15 inquiry provided no technical recommendations (HRSCSPLA 2015) or policy amendments (Australian Government 2016) to address the four types of solutions that fathers sought. Unsurprisingly, the inquiry also did not engage fathers' implicit concern with the legitimacy of the scheme. As a result of policy inaction, aggrieved Australian fathers have renewed calls for an inquiry into the child support scheme (alongside the family law system) (Murphy 2019). However, as our analysis suggests, another technically-bound inquiry will fail to address fathers' enduring concerns with the legitimacy of the system, irrespective of whether fathers frame these in terms of the technical workings of the scheme or not. This serves as a warning for both Australian policymakers and other countries with administrative child support regimes. Fathers' challenge to the social bases of child support have resonance for formulaic schemes internationally. Across contexts, the legitimacy of the state to determine fathers' post-separation responsibilities may also be called into question.

Conclusion

Given the mismatch between the issues managed by the Australian child support system and aggrieved fathers' accounts of the problems, their frustrations are understandable. But, this does not provide an easy path for policymakers seeking to deploy technical administrative tools to address social problems, such as those posed by the gendered distribution of caring labor. We suggest that Australia's new inquiry into child support will reveal similar contestation to that which was exposed within the HRSCSPLA process. We therefore urge other nations considering administrative child support systems or reforms to take heed of the limits of technical policy tools.

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