

# Preface

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This book originated with the complaints that have appeared in both the popular press and the academic literature as to the conduct of divorced and separated fathers. In the absence of marriage ties, these reports have suggested that many fathers have little interest or concern for their children. Many are even unwilling to make any financial provision for them. They are labelled 'Deadbeat Dads', and regarded as the worst type of villain. While they may not have physically harmed their children, you would never know that from the vitriolic tone of the published reports.

The evidence of this behaviour was well documented. Government statistics showed that most single mothers received no child support whatsoever from the fathers of their children. This absence was particularly common among never-married mothers, who are an increasingly high proportion of the total. Even among formerly married mothers, fewer than half received any support at all. Absent, non-paying fathers were an important social problem.

While one could not refute the statistical evidence, the conventional explanation seemed incomplete. If married fathers were concerned for their children, what explains the dramatic shift in their attitudes when marriage ties are broken? One answer, of course, is that most fathers did not really care about their children when married, and that this lack of concern simply becomes more apparent in the absence of marriage. But that explanation was not consistent with much of what I saw. Could there be another, more subtle explanation?

The attack on Deadbeat Dads was pursued with increasing vigour. In California, there was widespread agreement that the local district attorneys had not done enough to promote child support payment because so many of these obligations remained unpaid. The solution was to remove enforcement responsibility from these local officials and replace them with a centralized authority within the state government. A new Department of Child Support was created to serve that function. Henceforth, the full offices of the California state government would be used to ensure that these payments were made. If Deadbeat Dads were the problem, increasing government action would be the solution.

At about this time, I happened across a provocative paper by Yoram Weiss and Robert Willis in the *Journal of Labor Economics*.<sup>1</sup> Among the findings presented there was that of every \$5 of child support paid to the custodial parent, only about one dollar was actually used to support the child.<sup>2</sup> That conclusion startled me, for it suggested a \$4 'tax' on every dollar of support actually provided. That ratio is an effective tax rate of 400 per cent. Perhaps that was the reason that so much child support went unpaid. If this finding was even approximately correct, there is clearly a substantial incentive against making these payments. Could that be the source of the 'Deadbeat Dad' phenomenon?

These issues cried out for the methods of law and economics. The function of this increasingly important hybrid discipline was to apply economic tools to legal issues. A particular methodological approach suggested itself. Using this method, the investigator assumes that preference functions remain unchanged as between alternate circumstances, and investigates if there are external factors that may have led to any observed differences in behaviour. Rather than making the easy assumption that preferences have changed, and that people are different when placed in new situations, this methodology presumes that the actors are unchanged and asks what else may have led to the different responses. Applied to the case at hand, this approach would assume, correctly or not, that most fathers' concerns for their children are the same inside and outside of marriage, and then examines how incentives may have changed when they are asked to make child support payments.

These motivating factors are critically important for devising appropriate policies. If the conventional wisdom is correct, and the interests and preferences of fathers in marriage and outside are simply different, then there may be little recourse but to impose increasingly stringent sanctions on behaviour we seek to discourage. On the other hand, if the problem is not due to a shift in interests or preferences but rather to rearranged incentives, then the appropriate policies may be quite different. The solution may instead be to shift incentives and find a way to make child support payments more incentive-compatible. The methodology of law and economics is drawn to this second approach.

Following my encounter with the Weiss and Willis article, I published a column in the *Los Angeles Times* that raised some of these issues.<sup>3</sup> There were discussions with lawyers and economists on these issues, but little more. Then in March of 2001, I received notice of a UCSB campus project on Critical Issues in America. An endowment existed to support a conference to explore issues that had become critical for our society. Clearly, the ongoing problem of child support payments fell in that category. I submitted a proposal for a conference on this topic, which was approved. I am

deeply indebted to Provost Aaron Ettenberg and Carole Self of the College of Letters and Science at UCSB for their support. I also received support from Chancellor Henry Yang, which I appreciate very much. We would not be at this stage in our work without this help.

The conference on this topic was held on the UCSB campus on 20 September, 2002. There were four papers presented by economists, four by attorneys, and one by a psychologist. They all dealt with different facets of the child support system. For the most part, those who attended were the authors of the papers, although there were also a small number of invited guests. I am particularly indebted to Professor H.E. Frech of the Department of Economics at UCSB, Dean Scott Altman of the Law School at the University of Southern California and Penny Mathison of the Santa Barbara Bar for their assistance. Apart from the opening chapter of this volume, the others were all presented at the conference. Each was subject to considerable discussion and debate, and was later revised. My introductory chapter was not presented there, but rather relies on the results and findings of the original papers and discussions.

There is an increasing need for further consideration of the child support system. My goal for this volume is that it provides an impetus for this effort. The current system cries out for needed change.

## NOTES

1. Yoram Weiss and Robert J. Willis (1993) 'Transfers among divorced couples: evidence and interpretation', *Journal of Labor Economics*, **11**(4).
2. *Ibid.*, p. 665.
3. *Los Angeles Times*, 22 February, 1999.

