One of the Hawke government's most ambitious promises has been that it will abolish child poverty by 1990. However, despite the dazzling rhetoric of "child support" and "family support", there's little prospect that children's economic situations will improve significantly. Linnell Secomb argues against a renewed emphasis on traditional notions of the family in the Child Support Scheme and proposes some alternatives.

The maintenance system which operated in Australia until mid-1988 was clearly unworkable and inadequate. As a result, custodial parents, nearly all of whom are mothers, have had to bear an inequitable share of the financial responsibility for their children.

While maintenance payments have remained low, the number of sole parents has increased over the past decade. The number of sole parents reliant on state income support has also increased so that currently there are nearly 250,000 sole parent pensioners in Australia; consequently government outlays have increased by over two hundred percent during the last decade. The federal government's response to this situation has been to introduce the Child Support Scheme which will increase maintenance levels and enforce their payment. The government has stated that the major objectives of the scheme are to decrease the high levels of poverty experienced by children in sole parent families and to reduce government outlays.

The Child Support Scheme is being implemented in two stages. Stage One, which took effect on 1 June 1988, establishes the framework for setting maintenance levels, for enforcing payment, and for reducing government support as it is replaced by maintenance payments.

The government will enforce maintenance payments through wage withdrawals administered by the Australian Taxation Office. Maintenance payments will be transferred to children via the Department of Social Security. Pension and benefit recipients will be required to claim child maintenance and also spouse maintenance where this is applicable. If the Department of Social Security considers that reasonable steps have not been taken to secure adequate maintenance, pensions
and benefits will be cancelled or not granted. These provisions are not new but the previous statutory obligation was not enforced except for a brief period at the end of the Fraser government. It appears that exemptions to this requirement will be granted in some instances and specifically, for example, where there is genuine fear of violence. However, it remains unclear what constitutes a genuine fear of violence and what will be required by way of proof.

The receipt of maintenance income will reduce the level of pension received by families on supporting parent’s pensions by $1 for every $2, once the level of maintenance income exceeds a very low income-test-free area. In effect, the application of the maintenance income-test creates an effective tax of fifty percent on maintenance income and it is from this effective tax that the government will achieve its saving. This high effective tax rate is higher than that imposed on the highest income earners and will represent a significant reduction in the benefits accruing to children through the Child Support Scheme. In addition, the income-test-free area for maintenance income has been reduced from its previous level of $40 per week plus $12 per child to $15 per week plus $5 for each child after the first. This will mean that much more of the pensioner families’ maintenance income will be subject to the fifty percent effective tax than was previously the case.

The new social security arrangements will also ensure that all forms of maintenance will be subject to this effective tax rate. Not only will periodic cash payments be “taxed” but so also will maintenance-in-kind and the portion of property transfers and lump sum payments which will replace, wholly or partly, weekly maintenance payments. These forms of maintenance will be imputed to income over time so as to establish their value as an equivalent to regular maintenance payments and will then reduce pension income through the operation of the effective tax. This “broadening” of the base which is subject to the effective tax means that the actual level of maintenance received by children will be further eroded.

Stage Two of the Child Support Scheme will come into effect in July 1989 and will apply to pension and benefits recipients who separate, or have a child, after that date. It will introduce a formula to determine how much child support should be paid. Under the formula the non-custodial parents will have their maintenance payments level fixed as a percentage of income above an exemption level. The exemption is made for self-support costs to a set level before the formula is applied and will also make allowance for the costs of natural or adopted children living with the non-custodial parent. Step-children or children of a spouse or de facto who are living with the non-custodial parent are not considered to be dependents of the non-custodial parent.

The percentage of income payable for maintenance will vary from eighteen percent for one child to thirty-six percent for five or more children. The formula will not be applied to income above two and a half times average weekly earnings. Clearly, this will decrease the maintenance burden on the highest income earners. Non-cash maintenance, such as transferring the family home, will be imputed to income over time and will therefore reduce the level of periodic cash maintenance that non-custodial parents will be required to pay. The changes introduced by the Child Support Scheme will increase the amount of maintenance paid, and will also increase the number of fathers paying maintenance. But not all children will benefit and the level of assistance will vary depending on the father’s income.

There is no attempt in the Child Support Scheme to place children on an equal footing. While some children’s maintenance payments will increase, as many as a third will receive no maintenance payments as their fathers may be either unknown, have died, be unemployed, be too poor to pay, or continue to evade. Furthermore, many children will receive an inadequate level of maintenance as the formula which prescribes levels of payment is well below the percentages of income intact families normally spend on their dependent children.

The Australian Labor government has responded to the “fiscal crisis of the state” by instituting a restrictionist economic regime which has, in part, involved reducing welfare provisions in the hope of reining in the government’s debt and thus allowing increased private investment.

The Child Support Scheme is, however, only one of a number of cost saving measures including the abolition of the Class B widow’s pension and unemployment benefits for 16 and 17 year olds, the extension of the waiting period for unemployment benefits to thirteen weeks, income testing of family allowances, the restriction of allowances for dependent children over eighteen who continue their education, the minimal take-up of the job search allowance and the family supplement allowance, and attempts to limit entitlement to old-age pensions.

While the Child Support Scheme forms part of the government’s strategy to restructure the economy, it also functions to reconstruct the family in a way which will maintain patriarchal relations.

It is not surprising that, in an era of reduced family formation resulting from decreased marriage rates and increased divorce rates, the state has established a cost-saving measure which simultaneously enforces traditional notions of family ties and obligations.

Under the scheme, women on sole parents pensions are obliged to seek
maintenance payments even if they have never cohabited with their child's father. The scheme affirms biological ties over social relations - women are forced to seek maintenance for their children's biological father even if the children no longer have, or never had, contact with them. At the same time, step-children or children of the father's current spouse or de facto are not considered dependents of the father even though he may relate to them as such. The scheme functions to re-establish outmoded notions of the "natural" family based on blood relations over contemporary forms of social, non-biological, family. In this model, women's reproductive function is central and her dependence on her children's biological father is not just assumed, but enforced.

Carol Smart, in her recent book on marriage and the reproduction of patriarchal relations, has suggested that there is no "feminist answer" to the "so-called maintenance debate". The issue of child maintenance raises the question of whether individual fathers should support their children after separation. Both positive and negative responses to this question are contentious from a feminist perspective.

Feminists have argued that women's financial independence is a prerequisite for their economic security and well-being. Within the current economic structures, however, abolishing maintenance payments would exacerbate the poverty of women and children in sole parent families and increase their reliance on inadequate state income support. As women earn considerably less than men, and as marriage increases women's labour market disadvantage while improving men's work options, it is difficult to avoid the conclusion that men should compensate women for this through child support. However, reinforcing maintenance reconstructs repressive family structures and relocates the problem of poverty experienced by children and women within the private sphere, avoiding public responsibility for alleviating poverty.

While a feminist position in regard to child maintenance is contentious it is inadequate to criticise the current Child Support Scheme and not to formulate some alternative proposals.

A feminist response to the Child Support Scheme must incorporate a concern for both the child's welfare and for women's security and independence. I will outline three reforms of the Child Support Scheme: they are neither comprehensive nor fixed and final propositions but, rather, are intended to promote discussion of alternatives to the current scheme.

First, a guaranteed maintenance allowance should be available to all children. This would achieve equality of treatment between children and would overcome the failure of the current scheme to assist close to a third of children in sole parent families. Further, it would overcome the significant disparities in maintenance levels received by children as a result of variations in their father's incomes.

Secondly, the base for the maintenance tax should be broadened beyond non-custodial parents to encompass all taxpayers. The advantages of this proposal are that increased child support could be collected which would enable more adequate payments to children. Moreover, the level of the maintenance tax could be decreased significantly from the currently high rates facing non-custodial parents and this would minimise avoidance which will continue to be a significant problem with the Child Support Scheme. It will also mean that the second families of non-custodial parents will not suffer as a consequence of the current high maintenance tax structure. A further advantage of this proposal is that the maintenance tax will not reinforce familial ties which the woman and husband have chosen to sever and therefore conforms with the "clean break" principle on which divorce judgments are increasingly based. Lastly, this proposal establishes the role of community support for children.

Thirdly, maintenance payments to families on pensions should not be subject to the effective tax of fifty percent that currently applies. This tax reduces support provided to the poorest group of children in order to achieve economically insignificant government savings. Moreover, this effective tax rate is higher than that paid by the richest taxpayers. This is clearly inequitable and diminishes the redistributive effects that the tax/transfer system aims to achieve.

These reforms would enable the Child Support Scheme to more adequately support children in sole parent families. They would also offset the emphasis on parental responsibility for children which has contributed to the maintenance of patriarchal family structures in which women are subordinated. The reforms would, instead, promote community responsibility for children. Thus, they would reflect the fact that benefits accrue to the whole community from the care and nurturer and development of children.

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