

AALS Mid-year Meeting: Workshop on Family Law:
Bridging the Gap Between Social and the Law

**NONMARITAL FATHERS' INVOLVEMENT WITH THEIR CHILDREN:
USING SOCIAL SCIENCE TO RETHINK CHILD SUPPORT POLICIES**

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My comments will be based on an article I published recently titled *Deadbeat or Deadbroke: Redefining Child Support for Poor Fathers*, 39 U.C. Davis L. Rev. 991 (2006). In this article, I examine the social science research on paternal involvement amongst poor, nonmarital African-American fathers.

Most legal scholars writing about child custody, visitation, and child support have relied on studies suggesting that nonresident fathers who were never married to their children's mothers are (1) less involved in their children's lives than divorced fathers and (2) are less likely to pay child support. However, social scientists have recently discovered that these findings do not apply to low-income, African-American fathers. They have found that many of these fathers are actually more involved in their children's upbringing and have more regular contact with them than divorced, middle class fathers. They are also less likely than other fathers to disengage from their children as time goes by.

Social scientists have also found that although low-income African-American fathers are less likely to pay formal child support than divorced fathers, the vast majority do not pay because they cannot afford to. Thus, these fathers are not voluntarily depriving their children of financial support. Indeed, most are just as poor as or poorer than their children and custodial mothers. Further, researchers have found that many of these fathers make in-kind and nonpecuniary contributions to their children. Specifically, they bring their children food, diapers, clothing,

toys, furniture, etc. even if they do not pay formal child support. They also provide valuable child care while the mothers work or run errands.

These findings are surprising to many legal scholars and policymakers because the general perception (or misconception) is that (1) low-income African-American fathers are more absent than other nonresident fathers and (2) they contribute little or nothing to their children's upbringing. The legal implications of these findings are significant. Lawmakers have focused on securing child support from nonresident parents, but have failed to explore the reasons why so many do not pay. Further, lawmakers and legal scholars have failed to recognize (partly, because we have been unaware of them) the contributions that many poor, African-American fathers make to their children. As a result, rather than focusing on improving outcomes for children, policymakers have focused on chasing nonresident fathers who may never be able to support their children financially, but who can and should make other, just as valuable, contributions. I propose that the law consider crediting significant in-kind and nonpecuniary contributions as child support.

I will spend a few minutes discussing the social science evidence suggesting that children benefit from regular contact with their nonresident fathers. I think this is probably a good place to respond to the other speakers since there is conflicting evidence on this issue. Then, I will discuss recent studies showing that many poor, nonmarital African-American fathers are very involved in children's upbringing even if they do not pay formal child support. Finally, I will discuss a few studies that found that in-kind and nonpecuniary contributions can facilitate paternal involvement amongst poor fathers and suggest ways that the law can encourage these contributions.