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Justice is in the Eye of the Beholder

By Elke Claessens & Dimitri Mortelmans

Abstract

This study aims to deepen our understanding of the perception of fairness in child support agreements. We build on the theory of reaching agreements and current knowledge considering justice perceptions in child support cases, applied to the specific case of Belgium, which lacks a uniform system for child support determination. Using qualitative in-depth interviews conducted with both ex-partners of a parental dyad, we analyze which factors pertain to the perception of (un)fairness and how this links to the way an agreement was reached. We find that, apart from the enumeration system and the height of the child support award, characteristics of the agreement and the parents are also of importance in determining the perception of (un)fairness. Converging these findings with the theory of reaching agreements provides a typology from communal problem-solving to unilateral yielding, which are linked to specific parental foci/motivations and bring forth own sources of fairness and unfairness. The results of this study are particularly useful for mediation strategies aimed at enhancing the perception of fairness and offers relevant insights for child support policies at large.
Introduction

Child support determination is a tricky subject. Not only does it require setting the cost of a child and assessing the parental resources; it also postulates monetizing what a child is worth. Furthermore, as parental resources are limited, it requires balancing competing and potentially fierce claims of the paying parent, receiving parent and/or the child (Ellman, Braver, & MacCoun, 2009; Schaeffer, 1990). What constitutes a fair agreement is therefore largely a value judgement (Ellman & Ellman, 2008; Magistad & Rettig, 1999). This is reflected by the fact that child support schemes tend to differ greatly in structure, requirements, and configuration, despite proposing an objective calculation of child support (Claessens & Mortelmans, 2018; Skinner & Davidson, 2009). Any agreement on child support is thus inevitably the result of a negotiation process, and not all parties necessarily comport with the result. This is serious reason for concern. A child support order considered to be unfair may spark continued quarrels between ex-partners (Lin & McLanahan, 2007) and negatively impact compliance (Lin, 2000), which, in turn, harms the child(ren) both financially (Mortelmans & Defever, 2015) and by reduced contact with the obliging parent (Hakovirta & Rantalaiho, 2011; Nepomnyaschy, 2007). Even when payments are made, an unfairly perceived agreement may induce resentment and end up disrupting the post-divorce adjustment and well-being of the entire family (Coleman, Ganong, Killian, & McDaniel, 1999).

Insight in what enhances the perception of fairness in child support agreements is thus important. Existing research in this area is nevertheless limited, considering either the estimation process (Brinig & Allen, 2011; Noyes, 2011; Schaeffer, 1990) or the height of the child support award, mainly in light of compliance (Hans, 2009; Huang, Mincy, & Garfinkel, 2005; Lin, 2000). We argue that this is too restrictive, as it neglects the relational, social, and environmental contexts within which parents navigate during the negotiation and continue
to undergo afterwards. Child support payment and receipt is more than simply a pursuit of financial support; it involves power dynamics, experiences, and responsibilities which determine (un)fairness beyond the scope of monetary exchange (Cozzolino & Williams, 2017; Magistad & Rettig, 1999). This research goes beyond the justice of the estimation procedure or height of child support awards and questions what determines parents’ perception of fairness in child support agreements in the broad sense. This is done by qualitatively assessing interviews on child support negotiation and compliance conducted in Belgium in 2018 with both ex-partners of a parental dyad. Understanding the principles underlying parental perceptions of fairness in child support agreements can not only aid social policy in enforcing regulations regarding financial support for children (Ganong, Coleman, & Mistina, 1995), but could also lead to more effective mediation strategies and child support policies at large (Lin & McLanahan, 2007).

Literature

The Belgian Child Support Dialogue

When there is a fixed method of setting child support, as is the case in most countries (Skinner & Davidson, 2009), feelings of injustice are mainly directed at the government and its estimation procedure. Belgium is interesting in this respect, as it is one of few countries lacking a uniform child support scheme. As such, the process of setting child support relies heavily on parental negotiation and agreement (Bastaits, Van Peer, Alofs, Pasteels, & Mortelmans, 2011). We therefore postulate that in Belgium, child support determination is more at risk of perceptions of unfairness than elsewhere. Furthermore, as parents actively debate the agreement, perceptions of unfairness may become personalized and directed at each other, rather than at the child support system. Finally, the discretionary nature of child
support determination may spark the sentiment of “winning” versus “losing” and catalyze unfairness. In sum, people who negotiated child support within the Belgian system provide rich potential for the study of perceived (un)fairness surrounding child support orders. This is strengthened by the fact that non-compliance was recently experienced by 14% of liable receivers (Pacolet & De Wispelaere, 2012), an issue typically induced by the experience of unfairness (Lin, 2000).

The Theory of Reaching Agreements

Why do parents reach agreements on child support they do not consider to be fair? Negotiation theory, which was established around the 1990’s and has not changed substantively since then (Borbély, Ebner, Honeyman, Kaufman, & Schneider, 2017), explains this through the dual-concern model, where self-concern (concern about own outcomes) and other-concern (concern about the other’s outcomes) are dimensions that run from weak to strong. Four possible strategic choices result from these dimensions, of which two lead to agreements: problem-solving and concessions (Van de Vliert & Prein, 1989). Problem-solving implies a high level of both own- and other-concern, which heightens the odds of reaching a communal win-win and thus fairly perceived outcome. Conversely, concessions imply strong other-concern but a weak self-concern. This leads to diminishing or even dismissing own values or goals, which, in turn, heightens the risk that the agreement will be considered unfair. There is a further distinction in the concessions-strategy between yielding and compromising. Yielding can be considered the absolute opposite of contending a decision, i.e., when a party “gives up” on a certain point. The latter takes own concerns more strongly into account. Yielding is thus inactively abandoning one’s own point, whereas compromising is an active and thoroughly considered concession. It is therefore to be expected that, in the context of
child support agreements, problem solving leads to greater justice sentiments than concessions, whereas compromising induces more perceived fairness than yielding to the other party (Carnevale & Pruitt, 1992; Lande, 2017).

**Forming a Perception of (Un)fairness**

The theory of distributive justice assumes that fairness has various meanings, serving as internal guidelines in the evaluation of a child support decision (Christensen, Dahl, & Rettig, 1990; Rettig, Tam, & Magistad, 1997). The three major distribution rules applied to evaluate fairness of an allocation are: (1) equity (equality of outcomes relative to individual contributions), (2) need (equality of outcomes taking into account individual need); and (3) equality (equal amounts to each recipient) (Cohen, 1987; Cook & Hegtvedt, 1983). Issues relating to unfairness indicate a discrepancy with parents’ internal perceptions of distributive justice, which hamper consensual agreements and add to interparental conflicts (Cook, McKenzie, & Knight, 2011).

The chosen distribution rule is nevertheless dependent on the factors that present themselves during the allocation process. Studies on the fairness of the estimation procedure and height of the child support amount provide us some factors that influence these perceptions. First, the procedure by which the distribution was reached can itself be defined as unjust (Cook & Hegtvedt, 1983). Schaeffer (1990) found a preference for taking into account both parents’ resources to set amounts proportional to financial capacities. Smyth and Weston (2005) found that respondents prefer the calculation to be made on net rather than gross income, and that there should be an upper limit on the calculated amount. Issues of fairness have also been identified in relationship to the underestimation of costs of childrearing and the possibility for obligors to hide sources of income, as well as the
inadequacy of a self-support reserve and the lack of consideration of other children (Noyes, 2011). Specifically concerning the Belgian system, different approaches being applied to different cases can exacerbate confusion and the perception of unfairness (Harris, 2015). Finally, Lin and McLanahan (2007) find gender differences in parents’ distributive preferences, with mothers opting for the equity rule, whereas fathers prefer equality.

Conversely, even a procedure that is considered “fair” might result in an allocation that seems unfair (Cook & Hegtvedt, 1983). In this respect, studies on non-compliance show that parents who are ordered to pay amounts they consider too high as well as low-income parents on welfare easily get discouraged, leading to non-compliance and the accumulation of arrearages (Meyer, Ha, & Hu, 2008; Waller & Plotnick, 2001). There is also a general sentiment that the amount of child support should be lower when an obliging parent lacks adequate financial resources. Also of importance is the custody arrangement. Shared care grants equitable access to, control over and contact with children and thus recognizes the parental responsibilities, which might make a fairer agreement (Seltzer, 1991; Stambulich, Pooley, Gately, & Taylor, 2012). Finally, more positive post-divorce relations between ex-partners have been found to minimize perceptions of financial unfairness (Coleman, Ganong, et al., 1999), in contrast to hostility towards the former partner and a perceived lack of control over how the money is being spent (Cozzolino & Williams, 2017).

Perceptions of what constitutes a fair agreement are important to understand, as there tends to be a substantial gap between child support guidelines and what single-parent families actually receive (Bloomer, Sipe, & Ruedt, 2002). Furthermore, individuals who are subjected to high levels of fairness deal better with stress, which is important in terms of post-divorce adjustment and wellbeing (Stambulich et al., 2012). This study therefore aims to
unravel the broad meaning of (un)fairness by considering how the child support agreement is experienced above and beyond the child support amount or the enumeration procedure.

Data and Methods

Data was collected via qualitative in-depth interviews with both ex-partners of a previous couple. As the sample pertained to parents who had made agreements about their children, an important prerequisite was having at least one common child living in the household at the time of separation. As the negotiations and agreements were questioned retrospectively, separations after 2010 were taken into consideration to limit memory issues. This nevertheless allowed us to gain a broad retrospective view on both long concluded and ongoing separation proceedings. Exploration of the research theme was ensured by variation in the nature of the relationship (married, living (apart) together), custody arrangements and new partners and/or children.

The first stage of data collection was intertwined with the preparation of an interview guide. Five interviews (two men, three women) were conducted, each followed by an adaptation of the guideline. This brought forth a structured interview guide used in the second phase of data collection, where students taking a qualitative methods course at the university of Antwerp each conducted two in-depth interviews and provided the subsequent transcription. Participants were found through interviewers’ own contacts, local and social media announcements, and a call in the newsletter of the Family Service (Gezinsbond). In total there were 245 interviewed dyads (490 respondents, 242 men, 248 women).

All coding and data analysis were done with NVivo (Mortelmans, 2019). First, a subsample of 30 interviews was subjected to open coding using the bottom-up approach of the grounded theory method, forming codes through a reading and analysis process (Starks
& Brown Trinidad, 2007). Second, these codes were structured and analyzed, with specific attention for the concepts of (un)fairness. This full process of grounded theory analysis allowed us to construct a first theoretical model (Glaser, 1998; Stern & Porr, 2011). When saturation was reached, the constant comparison method was applied in adding 20 more interviews to further modify and refine our model.

Several precautions ensure the validity and reliability of the results (Bryman, 2012). First, the interview guide offered inter-interviewer reliability, as each interview dealt with the same topics. This structured approach also enabled pre-coding, which students did according to each main question in the interview guide. This helped to find relevant sections in the transcripts and code the data further. Second, the coding being performed by the first author provided internal consistency in the approach of the data. Third, the heterogeneous respondent group prevented excessive narrative bias. Finally, the dyadic nature of the data allowed us to identify (a)symmetry in specific aspects characteristics of the parental couple, such as employment and educational level (see findings).

Findings

Defining (Un)fairness

Parents were directly asked to what extent they experienced their child support agreement as fair. There were largely three answers discernable: (generally) fair; (generally) unfair; neutral or mixed feelings. We derive the following definition of fairness from the data: “A (temporary) feeling or perception that a certain decision, agreement, division, action or practice is sufficiently correct, just, reasonable or balanced in relation to each partner’s means, time spent with and care given to children. In terms of child support this does not
pertain to a specific amount, but rather to the experience of equitability in consideration of everyone’s needs, costs and earnings”. Unfairness can be defined as, “a (temporary) feeling or perception of having missed or conceded opportunities, being cheated, victimized or disadvantaged, being treated inconsiderately, receiving too little or carrying an excessive burden with respect to each partner’s capabilities, means and expenses”. Finally, mixed or neutral feelings are, “an intermediary state of ambiguity concerning the justness of a decision, agreement, or division where either certain aspects are explicitly considered fair while others are not, or one finds it difficult to make concrete statements concerning fairness.”

**Factors Relating to (Un)fairness**

We distinguish various factors that pertain to the experience of (un)fairness, subcategorized in four groups. As expected, we found justice factors attributable to the enumeration process and the child support award itself. We also discovered the importance of characteristics of the child support agreement and of parents. Within these groups, we can rank the underlying factors from unfair to fair, presented in Figure 1.
Enumeration.

Concerning the **enumeration process**, there is plenty of unknowingness. This was expected, considering the lack of uniformity in the Belgian enumeration system. When asked how their child support was calculated, most respondents fail to answer which method was used. However, what was unexpected was that this does not necessarily lead to particular feelings of unfairness. While Harris (2015) found that the existence of different approaches leads to confusion among parents, we find that either respondents care little about the enumeration process, or place trust in the professional who performed the calculation:

> I have no idea [which method was used], I had complete trust in the notary who put it on paper for us. He had much more experience with it than I do. (Mark, 55 years old, separated since 2010).

Justice perceptions are affected by how parents remember certain aspects to have been taken into account, referring to the **distribution rules** of equality, equity and need. In our sample, the perceived justice surrounding an equal distribution is overwhelming, with many respondents referring to the fairness of their agreement because “everything is equal.” Many respondents have equal shared custody and work with a child account which parents have equal access to. For most parents, this arrangement is vital for the sense of fairness, which was expected based on the finding by Schaeffer (1990) that people prefer an equal consideration of, e.g., parental means. The other two distribution rules, equity and need, give way to mixed feelings. Concerning equity, a thorough consideration and weighing of parental resources leads to uncertainty and nitpicking what can be considered fair. Furthermore, when parents assume income changes for the other parent, the fairness of the current agreement is more easily doubted. Need provides similar findings. Several respondents acknowledge the need of the ex-partner to save or receive more than was agreed upon, due to financial
difficulties. However, this leads to mixed feelings, where acceptance readily meets a sense of unfairness. Often, the need of the ex-partner is considered provisional, with the expectation that the situation is temporary:

There was no other way for us because his income isn’t high enough. But I did tell him “if I were you and I didn’t have the children, I would work more”, also to work away that debt. (…) He just doesn’t have it. But then I think if he would just get another job to solve it … (Kathleen, 45 years old, separated since 2015).

When professional help was called upon, more fairness is generally reported than when no professionals were consulted. There are several reasons for this finding, such as that it’s easier to accept propositions from third parties, that professionals think of aspects one would easily forget, and their greater experience with separations and agreements concerning children (De Bruijn, 2018). Nevertheless, the level of fairness depends on the kind of professional consulted. Low-level professional help, such as mediators and notaries, generally receive positive feedback:

For me it was comfortable that it was guided and that I received an explanation why it was as it was. (…). The fact that we did it with a mediator made that it was only uncomfortable for an hour when making the agreements. But when I came out I had the feeling “OK, I have a fair agreement”. I never had the feeling that I was swindled. (Tom, 47 years old, separated since 2016).

Conversely, lawyers are often portrayed as synonymous with high-conflict separations. Respondents indicate avoiding lawyers to prevent a state of conflict. Similar sentiments are shared about courts and judges, who are considered a last resort when parents cannot come to a solution by themselves. Furthermore, the lengthiness of the process and the high costs are seen as reasons to prevent this type of professional help. This links to existing research,
which clearly indicates the higher level of rigor connected to using a lawyer (De Bruijn, 2018). For parents who used lawyers to reach an agreement, the scales are also tipped towards unfairness. Several respondents refer to them being pressured into hiring a lawyer due to their ex-partner’s choice to do so but being plumbed as a result. Interestingly, a fairness perception within the opposite situation – i.e., of the parent “winning” a battle between lawyers - is not brought forth by the data.

Finally, active input in an agreement is of great importance for a sense of fairness. This was to be expected, as Thompson and Hastie (1990) stated that ineffective negotiation is a trigger for undesirable consequences. Not feeling like one had a say is particularly detrimental. This implies that there was no room for active problem solving by the parent, but rather that they felt a certain amount of pressure or coercion. This is often, but not always, related to the other party having a good lawyer or to the perceived rigidity of the law, and leads to a strong sense of unfairness.

**Child support award.**

Parents also link perceptions of fairness to the height of the child support award, where unfairness is the main topic. Receivers claim the inadequacy of child support awards, whereas payers state being confronted with a heavy burden. Meanwhile, a striking number of respondents state limited knowledge of the financial matters. Only a few respondents have a notion of an average child support amount and comparisons are often made to how the award differs from that of other people. Many respondents also indicate trouble in understanding the implications for tax purposes. This lack of clarity in this matter leads respondents to explicitly ask for a bundling of information concerning the financial matters:
In the beginning, at the notary’s, it was a lot to take in. When they throw a bundle of theory at your head concerning taxes, shared custody, ... I was never able to clearly read anything about it. They should bundle it in a booklet or something, the theory. Even if you must read it 10 times. Then at least you can paint yourself a picture, after a while. (Bert, 54 years old, separated since 2014).

We further find that when comparing to others, the own agreement is generally considered less complex and fairer. Often compared to are high-conflict divorces and the many issues these entail for an agreement, which ameliorates the own plight. In this sense, many respondents consider themselves somewhat exceptional. This could be explained by the fact that people are prone to adopt a distribution rule that maximizes their own rewards and minimizes their costs, thus positively influencing their perception of the situation (Leventhal, 1976). However, when asked about the child support award, people show uncertainty when comparing what they pay or receive. Respondents search for a fair agreement that matches that of other people in similar situations. We again link this to the lack of clarity and rules in the Belgian system, due to which parents lack any notion of what to expect as a fair child support amount.

Agreement characteristics.

In Belgium, parents are motivated to use a “child account” - a split bank account to manage child-related finances. One or both parents deposit a monthly sum, often including the child allowance. It is interesting to note that respondents who use such an account generally have a greater sense of fairness than respondents who transfer child support unilaterally. This may be due to, as we saw earlier, the equality rule mainly being held as a distribution rule in the
case of a child account. Furthermore, having a child account increases insight in and control over how the money for the children is being spent, which is another important aspect pertaining to fairness (Cozzolino & Williams, 2017). When, on the other hand, child support is directly transferred from one parent to the other, the calculation is more strongly based on the need (costs of the child) and equity (fair contribution of each parent) rules.

Whether or not the agreement is fixed on paper appears to lead to neutral or mixed feelings concerning fairness. Overall, noting down the agreement is considered useful when things go wrong, i.e., if a party were not to adhere to it. Several respondents indicate the stability and security provided by such a document, which may prevent further discussion. As such, it is often considered beneficial for children. Conversely, some indicate that if agreements on paper are not followed, this raises the risk of calling in lawyers, which is generally not considered a good way of coming to an agreement. Also, it can be used as a tool to block or force the other parent, which potentially disrupts peaceful relations:

> Sometimes you think, “this is how I see it right now”, but it’s different than how it is on paper. I think your partner has more to use against you than when it’s not on paper. ... Sometimes there’s no other way [than to put the agreement on paper], but with parents where everything’s going fine, I think it should stay that way.

(Bianca, 38 years old, separated since 2014).

Linked to the child support agreement is the custody arrangement, as the child support award depends on the time parents spend caring for children. Parents who have equally shared physical custody of child(ren) more often perceive their child support agreement as fair, compared to parents who have other custody arrangements. This was expected, as previous research clearly indicates that sharing custody grants access to, control over and contact with the children, which enhances fairness (Köppen, Kreyenfeld, & Trappe, 2018, 2020).
Furthermore, we find that parents with shared custody predominantly use a child account and equally share childcare costs. This is interesting, as parents are under the impression that equal shared custody implies an equal sharing of costs. Nevertheless, Belgian law states that the division of costs is dependent on each parent’s share in the joint income. As such, even when a child spends an equal amount of time with each parent, the parent with the higher income should still contribute more. This does not seem an instinctual expectation. Respondents state that no child support is due in the case of equally shared physical custody:

*That’s the advantage of 50-50 shared physical custody, there is no child support. If you have the children for 60 percent and the other for 40, then they’ll have to assist for those 10 percent. We have that 50-50 arrangement, so there’s no pushing or pulling. (Bart, 41 years old, separated since 2016)*

Again, we refer to the lack of clarity within the Belgian child support system, which seems to extend itself beyond merely the non-uniformity of the enumeration procedure.

**Parental characteristics.**

We find indications of gender differences: men are more likely to make justice statements overall, while justice-related utterances by mothers more often concern fairness than unfairness. When mothers speak of unfairness, they indicate financial shortcomings of the father, whereas men more often proclaim a too heavy financial burden. This coincides with the stereotypical setting where men are providers and women receivers of child support payments. Perhaps therefore we find only fathers, and no mothers, who condemn the entire child support system and indicate the existence of a gender bias:
You cannot change it, that’s the law. The law, the Belgian law is only made for the women and the men are only made to pay, that’s how the Belgian shitlaw is.

(Frank, 64 years old, separated since 2010).

Women also more often relate the fairness of the child support agreement to their children, e.g., the time they spend with them and the influence they have. This indicates the importance of considering the utility or worth of children, which is, as of yet, not generally incorporated in child support determination (Brinig & Allen, 2011). Men, on the other hand, more often refer fairness to clarity of the negotiation process and bilaterally reaching an agreement. Meanwhile, we do not find support for the finding by Lin and McLanahan (2007) that mothers more often opt for equity and fathers for equality; this last distribution rule seems more of a general preference for our respondents.

We find that parents with a higher educational attainment more often refer to fairness. In this respect, trust is placed in the child support system, most notably in the calculation method. This is can be considered in line with the finding of Thompson and Hastie (1990) that more accurate perceptions are helpful in reaching fairly perceived outcomes. Respondents with a lower educational attainment more quickly refer to the child support amount itself, either as a burden for the payer or not being enough for the receiver. This can be related to the existence of financial difficulties amongst ex-partners, which is more often the case for lower educated parents. Unfairness is also raised more often in the case of financial inequality than equality between the ex-partners:

I think B. earns a bit more in the meantime. And he has bonuses as well. [The division in the child account] is now one-third and two-thirds, but that doesn’t seem entirely correct to me. (Laura, 41 years old, separated since 2015).
Symmetric negotiation roles enhance the probability of reaching fair outcomes (Wade-Benzoni, Tenbrunsel, & Bazerman, 1996). When parents have the same level of education, there is no greater fairness perception than when the educational levels are asymmetrical. However, when parents have the same level of employment (i.e., full-time, part-time, or unemployed), the perception of fairness is greater than the perception of unfairness, and far more than when parents have an unequal employment level. As employment level is highly correlated with income, an asymmetry induces differences in parents’ bargaining potential (Natalier & Hewitt, 2010). This can lead the “weaker” party to submit, or it may incite the perception of winning versus losing, and thus spark the perception of unfairness.

Further, as expected based on the research by Coleman, Gangong, Killian, and McDaniel (1999), a good relationship with the ex-partner is of importance the sense of fairness. In this respect, respondents refer to not using foul language nor fighting with their ex-partner, but being in a state of friendly, peaceful accordance with one another. Most respondents indicate that this was a process, however, and not a state that was immediately reached. Nevertheless, it is considered of great importance in terms of experienced fairness as it significantly improves the ease with which parents deal with their agreement. Parents often relate the importance of getting along with one’s ex in the best interest of the children. For one couple, it even means that the mother accepts not receiving child support (even though she has a rightful claim) because she knows the father has debts to pay. The finding of Meyer et al. (2008) that people hold a general preference for less child support duties when an obliging parent does not have adequate financial resources is thus present even when this disadvantages oneself, without necessarily affecting any justice perceptions.

Conversely, a bad relationship is linked to unfairness. This tends to concern respondents who indicate distrust in their ex-partner, typically in terms of how money is spent.
(e.g., going on trips, wearing new outfits). Blame is also often placed on the ex-partner in terms of them not doing enough to contribute a fair share:

Another discussion point was that there are no extra clothes at his place. I always have to provide a bag with toiletries and sleepover stuff. But then I think, he can buy all those things himself. It’s a lot of those little things … and then I sometimes think, do something yourself! (Kathleen, 45 years old, separated since 2015).

Finally, and mainly linked to a positive relationship, it is typical for male respondents to relinquish control over how money is spent. Most indicate being flexible in how child support is used, trust the use of it by the ex-partner and that it is being spent correctly, i.e., for the children. Again, this is a process that takes time and is linked to the (ameliorated) relationship:

She used to take a picture of the bill. We don’t do that anymore; I think it took a year. We both said it’s not required. I still trust her, so … I know that she doesn’t use it to go out to dinner with her friends, I’m 100% sure of that. (Steven, 43 years old, separated since 2012).

As many parents use a child account, these results can be indicative of parents having better insight in how money is spent when using a shared account. Nevertheless, even then, mothers more often take control of the money spending, have responsibility for the child-related expenditures and communicate about costs that need to be settled. Only a small minority of male respondents indicate being involved with money spending and regularly checking accounts. The overall good-natured way in which our male respondents tend to relinquish control over money is therefore noteworthy, as previous studies show negative effects of a perceived lack of control over how the money is being spent (Cozzolino & Williams, 2017).
Discussion

This study aims to deepen our understanding of what affects parents’ perception of fairness in child support agreements. The above findings show that, apart from the enumeration system and the child support award, characteristics of the agreement and of the parents are also of importance. The knowledge presented here is of use to mediators and other professionals who aim to guide parents to an agreement. It provides insights in what enhances fairness, which, in turn, is crucial for the correct payment of child support (Lin, 2000). As such, taking note of and adhering to these guideposts can be of potential use not only on the micro-level, i.e., between parents and within families, but on a macro-level as well, i.e., by unburdening the child support enforcement system and easing the demand for financial aid by parents liable to receive child support.

In a next step, we form a new typology by linking the subjective end points of an agreement as presented by the theory of negotiation (communal problem solving, compromising or unilateral yielding (Carnevale & Pruitt, 1992)) to actual sources of (un)fairness we found in our data. (see Table 1). Our aim is to apply a practical interpretation to the predominantly theoretical approach to negotiations, by illustrating how these theoretical aspects can be understood in light of actual experienced (un)fairness. As such, within each type of agreement we recognize among our respondents, we consider which parental motivation of focus can be distilled from the data, along with an evaluation of what this means in terms of the nature of the post-divorce relationship. Finally, we link each category to distinct sources of (un)fairness we gathered from our respondents. In what follows, we elaborate on each type of agreement and their practical implementation.
Table 1: Agreement types and sources of (un)fairness

<table>
<thead>
<tr>
<th>Type of agreement</th>
<th>Parental motivation/focus</th>
<th>Evaluation of post-divorce relationship</th>
<th>Source of (un)fairness</th>
</tr>
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</table>
| Problem solving   | Congeniality              | Good                                   | **Fairness**: ease of agreement, trust in ex-partner, reasonability, granting advantages, acceptance  
**Unfairness**: forgetting payments, (accidental) misuse of money |
| Compromising      | Guiltiness                | Good                                   | **Fairness**: acceptance in light of culpability  
**Unfairness**: powerlessness |
|                   | Best interests of child   | Good/bad                               | **Fairness/unfairness**: children’s interests come first |
| Yielding          | Conflict avoidance        | Good/bad                               | **Fairness**: shutting an eye, not raising one’s voice, claiming less, resignation  
**Unfairness**: wanting different things, damaged principles, wanting more |
|                   | Male disadvantage         | Bad                                     | **Fairness**: none  
**Unfairness**: system completely female-oriented, having no say in the matter |

**Problem Solving**

When having succeeded in reaching an agreement through what we consider as communal problem-solving, we find that parents have a congenial and friendly attitude. These are the cases where the main tendency is towards fairness. In this respect, other tendencies often brought forward are the ease of agreement, the trust one has in the ex-partner, the reasonability of the agreement, the willingness to grant the other advantages and the general acceptance of the agreement. This does not mean that unfairness is never raised. Forgetting
payments and misuse of money is also touched upon in these situations, but it is generally met with understanding or at most mild annoyance.

**Compromising**

When not being able to problem-solve, negotiation partners refer to concessions where either compromises are made, or a party unilaterally yields to the other. In many cases, we saw the compromising strategy occur. A possible parental attitude in this respect is guiltiness. Oftentimes, the parent who initiated the separation has feelings of guilt for having broken up or leaving behind their family. The sentiment can be directed towards children, the ex-partner, or both, and are reflected in an emotional state where the “guilty” party does not wish to demand getting their way or gain from the separation. We find that these parents consider the agreement fair in light of their own culpability. A source of unfairness in this scenario is a feeling of powerlessness, with culpability as a coercing force, compelling a compromise.

Between compromising and yielding we find the argument of the best interests of the child. This is not the sentiment of having children’s best interest at heart (which is true for most parents), but the active argumentation using this proposition. Momentous here is parents wanting their children to reside in the best circumstances, with as little negative consequences as possible due to the separation. This matches previous research, which shows that children’s needs are often considered as the best basis for determining child support (Coleman, Gangong, et al., 1999). In this scenario, we find that parents tend to see their agreement, whether it was reached through actively compromising or passively yielding to the ex-partner and whether it is experienced positively or negatively, as in the best interest of the child(ren) involved, and thus to be accepted as is.
Yielding

The best interests of the child can also be an argument when unilaterally yielding to the other party. On a theoretical level, the difference with compromising then implies that yielding means inactively abandoning one’s own point in light of what is considered to be best for the child(ren) (Carnevale & Pruitt, 1992).

Another possible aim we link to yielding is that of conflict avoidance. We find that some parents wish to keep away from discussion with the ex-partner and consider the success of their agreement in this light. A reported upon strategy is to refrain from certain actions (i.e., talking back, using foul language), which can also entail consciously not working with a professional or not bringing the case to court. The focus is here on preventing that the relationship, however its nature, worsens due to conflict. In this scenario, we find that fairness originates from shutting an eye to actions or exclamations from the other and not raising one’s voice to win a discussion. Claiming less than one could, is also a strategy, as well as resigning to the situation as is. Conversely, unfairness originates from both parties wanting different things, which can result in damaging one (or both) of the partner’s principles. Oftentimes, a party wants more than it is gaining in the agreement but refrains from pursuing it in light of conflict avoidance.

The final “gendered” focus we find within the context of yielding is that of male disadvantage. In this instance, the male ex-partner is guided by a sense of gender bias in the child support system and considers their position in the agreement to be undermined by that of their female ex-partner. These men consider themselves not to have had any say the agreement, as the child support system is seen as completely female-oriented. Frustration with the child support system is oftentimes also re-directed at the ex-partner herself, increasing parental conflict (Lin & McLanahan, 2007). This is a dangerous situation, as
research has shown that fathers who consider themselves to be treated unfairly by the child support system fail to pay child support (Lin, 2000). Especially for this group, it is vital to improve the perception of fairness. In this respect, Lin (2000) suggests employing uniform guidelines to determine child support orders, which may develop a compliance “climate” such as that of income tax systems. If seen more as a norm that others are also following, fathers might view their own order as fairer.

**Convergence of Agreement Types**

While we have attempted to illustrate how theoretical endpoints of an agreement manifest themselves practically, this typology is not always singularly applicable to a situation. In many cases, parents are led by multiple motivations, leading to a complex interplay of tactics and emotions in reaching an agreement. For example, we found situations where an ex-partner is led by guilt, while also wishing to avoid conflict with the other party. It is further possible that parents have different motivations. One may be very congenial towards the other and have a sense of fairness, while the other is avoiding conflict and experiences a great deal of tension. Nevertheless, breaking down the sources of (un)fairness we found in our data sheds light on the complexity underlying these concepts, and shows that it is not merely a question of whether or not an agreement is considered fair. It indicates the importance of considering how parents reached the agreement and the underlying parental motivations of said agreement. We see that parents who succeeded in problem-solving have other concerns of unfairness than those who have yielded and thus require different approaches to “holding the peace”. This knowledge is especially vital in cases of re-negotiation of child support orders (e.g., income changes, aging of children, etc.), and serve as practical tool for mediators and child support enforcement alike. Where individual enforcement tactics are likely to work for
parents who problem-solved or compromised, these may anger parents who yielded in the negotiation process. For these parents, we suggest standardization of child support determination as a tactic, as they can then consider their agreement as part of a general practice that everyone submits to.

**Conclusion**

This study goes beyond earlier findings concerning the perceived (un)fairness of child support agreements, which mainly focused on the enumeration system and the height of the award (Brinig & Allen, 2011; Hans, 2009). Nevertheless, there are some limitations to be acknowledged. First, participation in the interviews was voluntary and the sample was obtained by convenience sampling. As both partners needed to agree to participate, we expect some bias towards better cooperating ex-partners who don't fear repercussions from speaking openly. We might therefore lack certain high-conflict separations. Second, by working with a large group of interviewers and a fixed interview guideline, there was not much flexibility to elaborate on points brought forth in the interviews, nor to further adapt the guideline. Nevertheless, the pilot study that precluded the actual interview phase and gave way to the interview guideline limits this drawback.

Several topics remain open for future research. It would be interesting to delve deeper into how the negotiation process itself affects these perceptions. This would allow an analysis of high-versus low-conflict separations, the effect of child and environmental characteristics and how different negotiation styles lead to a type of agreement. As stated above, an oversampling of high-conflict divorces would be useful to better chart their pathways to agreements, which we expect to vary from that of low-conflict, cooperating parents. It would further be interesting to conduct a cross-country comparison of our findings, as we assume
different child support systems to give way to different agreement types and thus sources of (un)fairness. When, for example, in countries with uniform systems for child support determination frustration is aimed at the method of enumeration, this discontent has an “easy target”, namely the government and child support policies. In Belgium, the lack of such a uniform method and the consequential feeling of randomness in child support setting may lead the perception of unfairness to be personalized, directed at the ex-partner. This is concerning, as it is a catalyst for interpersonal conflict. As such, we underline the importance of clear child support guidelines and a uniform determination method.

Finally, we urge the active consideration of fairness perspectives in mediation strategies, considering the aspects presented in this study and research still to come. As all child support systems face struggles with the enforcement of correct payment, enhancing compliance by taking into account parents’ concerns for fairness is an important and viable approach. Considering where parents fit within the presented typology may then be an important starting point in mapping potential sources of (un)fairness and addressing them.
References


Hans, J. D. (2009). Beliefs about child support modification following remarriage and subsequent childbirth. Family Relations, 58(1), 65-78.


