



Unilateral divorce versus child custody and child support in the U.S.

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ABSTRACT

This paper explores the response of the divorce rate to law reforms introducing unilateral divorce after controlling for law reforms concerning the aftermath of divorce, which are omitted from most previous studies. We introduce two main policy changes that have swept the US since the late 1970s: the approval of the joint custody regime and the Child Support Enforcement program. Because those reforms affect divorce decisions by counteracting the reallocation of property rights generated by the unilateral divorce procedure and by increasing the expected financial costs of divorce, it is arguable that their omissions might obscure the impact of unilateral divorce reforms on divorce rates. After allowing for changes in laws concerning the aftermath of divorce, we find that the positive impact of unilateral divorce reforms on divorce rates does not vanish over time, suggesting that the Coase theorem may not apply to changes in divorce laws. Supplemental analysis, developed to examine the frequency of permanent shocks in US divorce rates, indicates that the positive permanent changes in divorce rates can be associated with the implementation of unilateral divorce reforms and that the negative permanent changes can be related to the law reforms concerning living arrangements in the aftermath of divorce. This seems to confirm the important role of these policies in the evolution of divorce rates.

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1. Introduction

In an article in the *American Economic Review*, Wolfers (2006) finds that reforms in the divorce law in the United States (US) during the 1960s and 1970s had a positive effect on divorce rates. Wolfers claims that this result does not back up the applicability of the Coase theorem to marital relations since divorce rates are not neutral to changes in divorce laws.

¹ However, he also observed that the effect was transitory; after a decade, no effect on divorce rate could be discerned.² This generates doubts about the empirical evidence that does not support the predictions of efficient Coasian bargaining. To explain his puzzling results, Wolfers suggests that a situation where spousal bargaining was close enough to the efficient one – consistent with the Coasian approach – can account for the small and transitory effect estimated. In this paper, we provide an alternative explanation by presenting evidence that later reforms that introduced changes in divorce settlements may explain the diminished effect of unilateral divorce on the divorce rate.

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¹ In Coasian terms, a change in divorce law only generates a redistribution of the property rights between spouses; thus, divorce reforms are not expected to affect the divorce rate (Becker, 1981).

² Further, some of his estimates indicate that divorce rates were lower as a consequence of unilateral divorce 15 years after its implementation.

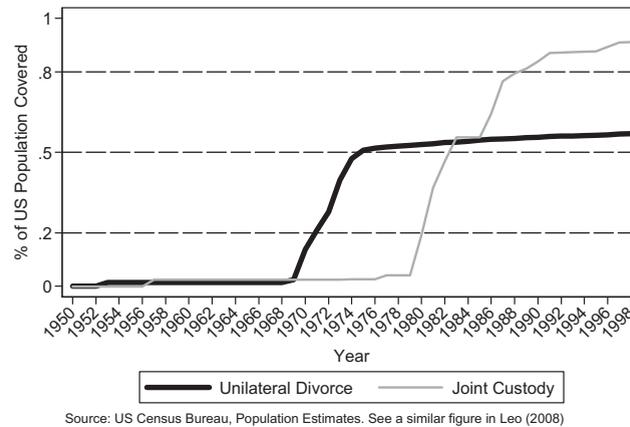


Fig. 1. Coverage and timing of reforms.

Two primary aspects of law are relevant to divorce and both may affect divorce decisions (Fine and Fine, 1994). First, there are laws that regulate how spouses obtain a divorce, and these include the unilateral divorce regime.³ Second, there are laws that govern the living arrangements in the subsequent periods after divorce, including such matters as spousal support, child support, and child custody.⁴ These are not included in Wolfers (2006) but they may have significance in the evolution of the divorce rate.⁵ Although, from a theoretical point of view, it can be suggested that those changes in divorce settlements have an ambiguous effect on divorce (see Nixon, 1997; Rasul, 2006a; Halla, 2011), previous empirical research has found that both changes in the financial obligations of parents and the introduction of joint custody negatively affect divorce rates (Nixon, 1997; Brinig and Buckley, 1998).⁶ Thus, it is arguable that the analysis of one of those aspects of law relevant to divorce alone might in some way obscure the impact of unilateral reforms on divorce rates.

This is even more relevant in the US since while the share of the population covered by the no-fault unilateral reforms increased from the late 1960s, reaching 50% of the population in the early 1970s (see Fig. 1), a trend of reforms occurred in the area of post-divorce child custody and child support. Empirically, it is unclear whether the dummy variables included by Wolfers (2006) to capture the dynamic response of divorce only pick up the path of the adjustment of divorce rates to unilateral divorce. Wolfers observes that the effect of unilateral divorce law reforms on divorce rates had dissipated a decade after the implementation of the unilateral divorce law, which coincides with the rise in the incidence of joint custody (Fig. 1). The timing of both reforms differs by at least a decade in almost all states in which those reforms were implemented (Friedberg, 1998; Leo, 2008). In the area of child support, the US Congress approved several laws to try to ensure child support payments. The main reforms were the Child Support Amendments of 1984, the Family Support Act of 1988, the Child Support Recovery Act of 1992, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and the Deadbeat Parents Punishment Act in 1998 (see Sorensen and Halpern (1999) for a review of state statutes). This again tallied with the time at which a negative response of divorce rates to divorce law reforms was found in Wolfers (2006). We argue that what lies beneath Wolfers's results are two countervailing forces, which together produce the observed pattern. Thus, the initial increase and subsequent decrease in divorce rates would be the response of divorce rates to the initial changes in divorce laws followed by custody reforms and Child Support Enforcement (CSE) efforts.

Initially, we include the reforms that govern the aftermath of divorce into Wolfers's specification using data on the divorce rate from 1956 to 1988. We introduce both child custody law reforms and CSE efforts. Our results suggest that the long-run effect of divorce law reforms on the divorce rate observed by Wolfers may be the result of both unilateral reforms and changes in the aftermath of divorce. When we separate both effects, we find evidence of a persistent impact of divorce laws on divorce rates, although these results are sensitive to the inclusion of state-specific trends. This is robust to a range of alternative specifications and to the selection into marriage effect. These findings suggest that the Coase theorem cannot be applied to marital dissolution.

As an additional check that the changes in the aftermath of divorce are driving our findings, we separate the analysis into divorcing couples with and without minors in order to check whether the behavior of childless couples – the sub-population not affected by legal changes in the aftermath of divorce when they obtain a divorce – is driving our results instead of the

³ Unilateral divorce does not require mutual consent and it can be granted at the request of either spouse.

⁴ We do not pay attention to changes in spousal support or alimony (a court-ordered money transfer between ex-spouses for a limit period after the divorce) since only a small fraction of ex-spouses received alimony and in the period considered there were no significant changes in this issue (Beller and Graham, 2003).

⁵ Previous research on the effect of divorce law reforms on divorce rates also failed to account for changes in the aftermath of divorce. See Peters (1986, 1992), Allen (1992), Friedberg (1998), Gray (1998), and González and Viitanen (2009) among others.

⁶ More recently, some studies have failed to find a significant effect of changes in custody laws and child support on the divorce rate (Halla, 2011; Heim, 2003).

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