

Chapter Eleven

FATHERS - PREJUDICE AND POLICY

by
Stuart Birks

1. INTRODUCTION

There was an interesting poll undertaken in 1994 indicating falling public regard for the importance of fathers, especially by women, with support for this view from a researcher at the Office of the Commissioner for Children:

The latest Listener/Heylen Monitor found that 60 percent of those surveyed think that children need both parents in order to grow up happily. That is a noticeable drop from 1985, when the figure was 69 percent.

Among some groups, the decline is more marked. Only about half the women surveyed this year thought that children needed both parents; in 1985, nearly two-thirds thought so. The decline among men was smaller, from 77 percent to 69 percent.

...

Dr Gabrielle Maxwell, senior researcher in the office of the Commissioner for Children, says that these results are partly a reflection of the change in the nature of the family. Many more women are solo parents now than in 1985, "and they know the reality that they can provide for their children without a man" ...The overall change between 1985 and 1994, she suggests, also partly reflects "the gradual percolating-down of information from research, which shows that children can grow up perfectly unharmed by being in a solo-parent family."

(Listener/Haylen, 1994)

A different view was expressed in the New Zealand Government's discussion document, *Towards a Code of Social and Family Responsibility*, which includes the following questions:

- What more can we all do to encourage fathers to play a more active part in bringing up their children?
- Where parents are separated, what more can be done to support the rights of the child to have contact with *both* parents on a regular basis?

(Department of Social Welfare, 1998, page 19)

Some fathers were surprised by these questions which seemed to convey a lack of awareness of their situation on the part of the government. This is a concern because government itself has an impact on how families operate, particularly through the Family Court. Separated fathers who want to continue to be effective parents to their children can face many obstacles and get little support if the mother is uncooperative. False allegations of violence or abuse can be very damaging to the relationship between a father and his children, but there is little to dissuade someone intent on making such allegations.

There are some visible signs of fathers' frustrations with the Family Court expressed through letters to the press and sometimes in more extreme ways. On December 18th 1998 a father was acquitted of threatening to kill a Family Court Judge. In the trial he voiced dissatisfaction with his treatment by the Family Court, saying that he and others were "made to jump through hoops" (Court Reporter, 1998d). In another case, John la Roche, convicted of murder for the courthouse stabbing of his ex-partner, put much of the blame on his treatment by the Family Court (Court Reporter, 1998b, 1998c).

The following section of the paper outlines some of the attitudes that might result in such frustration. There is evidence that the Family Court discourages parenting involvement by fathers and does not effectively support a child's right to contact with both parents (see Birks, 1998e). This is in part due to the views held by some of the people involved in these decisions.

Section 3 investigates how these attitudes may have become prevalent. Section 4 then discusses some possible developments. It also discusses the institutional requirements that could lessen the likelihood of problems arising in future.

2. ATTITUDES

Prevailing attitudes are important because they influence the selection and interpretation of information used in decision-making. Sometimes these attitudes are surprising, especially in hindsight. It is important to understand how they may have arisen and the social context in which they are observed. Here are some attitudes drawn from a variety of sources including personal comments and the media. They have been expressed to fathers by people in the Family Court, or by politicians, or are otherwise indicative of the thinking underlying recent policy and court actions. They have been used to justify recommendations, or court decisions, or political positions and in several cases they have been said to separated fathers anxious to have more contact with their children:

- i) We should not say that fathers are important because it might upset sole-mothers;
- ii) Fathers are not important, judging by past experience of families where fathers were absent at work;
- iii) Fathers walked out on their children a generation ago, so we need not support separated fathers now;
- iv) Domestic violence is predominantly perpetrated by men;

- v) Children need one home base for continuity and routine;
- vi) Children should stay with whoever was their primary caregiver;
- vii) Separated non-custodial fathers should just "get on with their lives".

There are counter-arguments that can be raised in response to these points, some of which are presented here.

We should not say that fathers are important because it might upset sole-mothers

There is increasing acknowledgement of the importance of fathers (see Chapter 5). It might upset some mothers to stress that fathers are important even if a couple have separated. Nevertheless, recognition of a father's contribution is justified.

If the father's contribution is lacking, we have to consider why the father is not involved. There are those who have deliberately excluded the fathers through what is known as parental alienation. This is a form of child abuse (see Blaikie, 1994). If we are concerned about the welfare of children, it would be inappropriate to ignore this harmful behaviour.

If it is the father who refuses to be involved or is unsuitable, then the problem lies either with the father, or in the nature of the relationship between the parents. In either event, it is appropriate that attention be drawn to the problem rather than pretending that it does not matter.

If it upsets sole-mothers to say that fathers have a contribution to make, then isn't it equally upsetting to fathers for this point to be denied? This is of particular concern for many fathers as it represents what they perceive to be the attitude of the courts and the government.

It should not be assumed that there is only one active parent just because there is a "single parent household". Parents are considered to be non-custodial if the children stay with them for less than 40 per cent of the nights. This could mean that they are with them for every weekend and more, or, in other words, the non-custodial parent might have more active contact time with the children than the "sole-parent".

Fathers are not important, judging by past experience of families where fathers were absent at work

The comparison is inappropriate. In one situation, a child grows up with a father who is spending long hours away from home to provide financially for them all. He could be there for Christmas, birthdays, and family gatherings. He is probably there at weekends. If he is ill, he might be cared for at home. They may go on holidays together as a family. His position and contribution are likely to be supported by the mother.

In the other situation, given current policies, the situation is quite different. The father is unlikely to be there for these activities. He may be struggling to see the child and to play an active parenting role. This could be in the face of open hostility from the mother (backed up by the Family Court). The child might feel compelled to take sides, or to reject the father. The father is unlikely to have any effective say in family decisions, but will be compelled to work and pay to support the family anyway.

Lapsley (1993) discusses domestic violence in terms of the "atmosphere" created. This does not depend solely on the amount of time a person is in the home and can have an effect even when the person is absent. If these negative dimensions are recognised, then for consistency we should also acknowledge the positive contribution that a father can make through his actions, even when he is contributing to the family through working elsewhere.

The two examples set for the child as to what to expect in future life are not comparable, nor are the prevailing rights and responsibilities between family members.

In addition, it seems unduly harsh to say to fathers who have been and wish to be active parents that they are not important on the basis of such examples. We could extend the reasoning further to downplay the role of mothers by talking about cases where they were absent, even taking cases where neither parent was present. Should we use the example of boarding schools to assert that neither parent is important? Presumably we could reason that children should be brought up communally, with parents paying for this and seeing their children once every few weeks.

Fathers walked out on their children a generation ago, so we need not support separated fathers now

Some of today's fathers are the children of those earlier fathers. Perhaps they don't want to repeat the same mistakes.

There were fewer separated fathers then than there are now, and the "common wisdom" of the time was that a complete break was most appropriate. This, linked with the social stigma of divorce, would have made it very hard for fathers to continue to be involved.

Furthermore, it is not clear what collective responsibility today's fathers have for the actions of a previous generation. There is also a very different approach to women's entry into the workforce, although a generation ago far fewer women had careers. The reasoning in the two situations is inconsistent.

Domestic violence is predominantly perpetrated by men

This is based on certain sources of partner violence data such as crime statistics. Numerous studies of partner violence report on surveys giving prevalence rates. These commonly indicate that prevalence of partner violence by women is as high as or higher than that for men. For discussion of this issue, see Pearson (1997).

New Zealand data showing women to have higher perpetration rates and lower victimisation rates can be found in Magdol et al. (1997). See in particular, tables 1 and 2.

It is particularly inappropriate to focus only on partner violence if a major object is the "best interest of the child". Child abuse is an area where women figure largely (see Chapter 9).

The unbalanced approach to men's and women's violence is further illustrated by the stance that "there is no excuse" for men's violence, and that attempts to explain this violence are unacceptably "blaming the victim". In December 1998 Manawatu Men Against Violence put out a statement about the 1997 Family Violence Symposium held in Palmerston North. The symposium debated changes in approaches to domestic violence resulting from the Domestic Violence Act (1995) and other developments. The statement acknowledges "the anger and grief felt by the committee members representing Palmerston North Women's Refuge by being associated, through their committee involvement, with presentations which neither they nor the Women's Refuge endorsed nor accepted." This suggests that the intention of some of the organisers was to present their preferred viewpoint only. The statement goes on to present the position of Manawatu Men Against Violence:

" ... men who are or who have been violent or abusive in domestic relationships can not in any way minimise their responsibilities for their behaviour by blaming it upon or attributing any part of it to the behaviour or attitudes of their partners or other family members who have been or may be victims of the violence or abuse...MMAV greatly regrets that any presentations might have been interpreted as indicating a victim could be blamed in some way for the violence or abuse they received."

This argument denies the possibility of mutual responsibility for domestic violence by men in the context of more complex family interactions. While the MMAV argument is that the perpetrator is solely responsible, there is just a short step from refusing to "blame the victim" to downplaying a perpetrator's behaviour on the grounds that the perpetrator is a victim. The criteria may not be applied consistently, however. On trial at the end of October 1998, John la Roche said that his treatment by the Family Court was a major factor in his case, but he still received a life sentence for murder. On 19th October 1998, Janine Albury-Thompson, convicted of strangling her daughter, had her manslaughter sentence reduced to 18 months. It had been reported that Albury-Thompson did not get sufficient support in dealing with her autistic daughter (Matthews, 1998), and that was provoked by the 17-year-old's difficult behaviour (Court reporter, 1998a).

The approach to men's violence indicates underlying valuations of men's parenting. It is presumed that the removal of a risk of violence by the father, even if slight, outweighs any cost to the child arising from the loss of his parenting. This, and the failure to deter or penalise false allegations by mothers, indicates that the parenting contribution of

fathers is not considered important. If fathers do have a real contribution to make, then many children will be penalised by the implementation of the Act. Zelas (1998), referring to cases of proven abuse, cautions about the psychological effects of family disruption and the removal of a parent (p.275). She sees value in protecting the parent-child relationship even when the parent has been abusive.

Children need one home base for continuity and routine

This argument is used to suggest that shared custody is undesirable for children. However the same reasoning is not used when considering children going to day-care, kindergarten, grandma's, school, etc.. The effect of this approach is to deny non-custodial fathers the opportunity to establish and participate in any routines with the children, hence their relationship with the children atrophies over time, especially as the children grow and activities and needs change. The issue of routine is also viewed differently by the Family Court when considering a custodial mother's wish to relocate. On this matter someone who writes psychological assessments for the Family Court, "*seriously question[s] the involvement of the Family Court at all*" (Adamiak, 1995, p.125). This is despite the change of home and school and the move away from the father, friends, and possibly extended family.

Children should stay with whoever was their primary caregiver

This effectively assumes that only one parent is needed. It also ignores the possibility that parenting roles change over time, that the ability to parent may depend on family circumstances, and that it might be appropriate to promote options which facilitate changes in custody as the children get older (rather than the current ones whereby the non-custodial parent is often "phased out"). In other words, it would be wrong to use continuation of roles during marriage as the overriding determinant of roles after separation. I discuss these points in more detail in Birks (1995). The changing nature of families can also make it difficult to determine who is the primary caregiver, as, for example with dual-career couples.

It may be that a custodial parent is hostile to a child having a close relationship with the other parent. If parental alienation is occurring, support for the alienating parent could compound the alienation, as discussed in Rand (1997a, 1997b). She describes how a custodial parent can grievously harm the relationship between a child and the other parent. Some studies refer to children being "held hostage" through "brainwashing". Professionals working in the Family Court sometimes advocate a policy of appeasing the custodial parent in the belief that that parent's situation significantly affects the wellbeing of the children¹. This may be misguided because of "the influential role of other people in the child's life, such as ... professionals aligned with the alienating parent, whose endorsement of the programme advances the alienating process" (Rand, 1997a, p.35). This can be harmful to the child for various reasons, including failure to

¹ In the context of a custodial mother wishing to relocate, Judge Boshier stated that, "*the mother's enhancement as a primary care-giver is more important than the father's wish to have ready contact*" - Quoted by Judge Green in (Green, 1995, p.137).

separate emotionally from the alienating parent (Rand, 1997b, p.46), and that "children may learn to get their needs met by fabrication and manipulation" (Rand, 1997b, p.47).

Separated non-custodial fathers should just "get on with their lives"

It is not uncommon for people to decide not to replace a pet dog that has died as they found the loss so upsetting. Contrast this to the view that men should be able to accept the loss of their children through court orders, denied access, or alienation, and "move on" to new relationships and perhaps a step-parenting role. Their children have not died, and any attachment they form with step-children will have even less significance in the Family Court than their attachment to their biological children. There is an apparent lack of understanding of this issue by the professionals working in the Family Court. This lack of concern can be seen even in the work of some counsellors and psychologists engaged by the court. The problem is not unique to New Zealand, as discussed in section 4 below.

Insensitivity to men's feelings and a disregard for their possibly genuine concerns can be seen in another context, that of fathers who are in prison. To quote a New Zealand study for the Ministry of Justice, "... some men did not want contact with their children while in prison either because they found such contact stressful or because they did not want their children to see them in prison. They seemed unaware of what their children's preferences were or whether this was in fact in the best interests of their children in the longer term." (Gray Matter Research, 1996, p.30). This seems to downplay the feelings and opinions of the fathers, because the report goes on to state: "When visits do take place, the environment can be frightening and communication restricted" (p.31).

3. STRUCTURES

This section considers why the environment might be conducive to views such as the above, and how these attitudes might arise.

Historical information

Chapter 2 of Burgess (1997) presents information on fathers since 1790. She points out problems with the common sources used to support the case that fathers traditionally have had little involvement with their children. On page 38 she states:

Household historians also turned their attention away from advice given to parents, and focused on private papers, by analysing diaries, autobiographies and letters in a systematic way. Together these two approaches cast quite a different light on family life in times gone by and, in particular, on the actions and affections of fathers.

To summarise the chapter, the main points on father involvement as I see them are:

- information is limited;
- experiences varied very much over places and over households;
- many men were very involved;

- the changes caused by industrialisation meant that some fathers worked outside the home, but children stayed at home longer and home life became more leisurely;
- men and women both tended to understate the extent to which men actually parented, and people have little recollection of who did what for them when they were very young (so "recollections" of early childhood are likely to be primarily shaped by what children hear later).

It should also be noted that parenting styles generally vary a lot over time and place. High levels of involvement by fathers are currently being promoted. It is misleading to judge fathers in the past according to this standard. There have been times when both mothers and fathers were told to be more distant. Hardyment (1995) looks at baby-care advice since 1750 and identifies distinct trends. It is not long ago that parents were advised not to pick up to crying babies (p.188). Also demand feeding of babies was discouraged between the World Wars: "The brisk, clockwork regime of regular feeds and much 'time alone' had solved domestic logistics as well as meeting current psychological fashion" (p.226).

Even today, there is ambivalence about father involvement in two-parent families, and fathers are commonly sidelined on separation using the sort of arguments discussed in part 2 above.

In addition, men may be more constrained than previously due to the prevailing emphasis on abuse and inappropriate physical contact (see Chapter 9).

Doherty et al. (1997) recognise the important contribution fathers can make while also acknowledging that "substantial barriers stand in the way of active, involved fathering". Among these, mention is given to gatekeeping by mothers. It appears that this may not be a new phenomenon, as Hardyment (1995, p.122) observes. She refers to the author of *Child Training*, published in 1914:

Mrs Arthur Acland felt she had to plead against 'a tendency towards putting the father outside the life of the child, a more or less clumsy interloper whose opinion and advice is to be taken critically, and with more or less conscious derision'.

Doherty suggests that gatekeeping may be linked to the relationship between the parents, especially if they are separated, but "even within satisfactory marital relationships, a father's involvement with his children, especially young children, is often contingent on the mother's attitudes toward, expectations of, and support for the father". The authors cite studies indicating that, "many mothers are ambivalent about the fathers' active involvement with their children". By way of explanation, they say that, "active paternal involvement would threaten some women's identity and sense of control over this central domain of their lives".

Not surprisingly perhaps, conflict or stress between parents can therefore be a major inhibitor of effective father involvement. As Doherty et al. state, "Research demonstrates the particular vulnerability of fathering to contextual and institutional

practices". Attitudes can be both inappropriate and significant, so it is important that people are well informed.

Methodology

The perceptions we have of issues depend on the perspectives we take. These can be limiting, resulting in individuals and groups maintaining over-simplified and inappropriate views. Goleman (1997) refers to "schemas" and "frames" when describing the behaviour of groups and the self-deception that can occur:

"Self-deception operates both at the level of the individual mind, and in the collective awareness of the group. To belong to a group of any sort, the tacit price of membership is to agree not to notice one's own feelings of unease and misgiving, and certainly not to question anything that challenges the group's way of doing things." (p.12)

"... shared schemas guide group dynamics ... the social construction of reality. Shared schemas are at work in the social realm, creating a consensual reality. This social reality is pocked with zones of tacitly denied information. The ease with which such social blind spots arise is due to the structure of the individual mind. Their social cost is shared illusions." (p.23)

To guard against this, it is important that policy formulation and implementation build on broadly-based analyses and a multiplicity of perspectives. Research which actively seeks to promote one point of view has been termed "advocacy research". While not using the term itself, Branham describes advocates as *"people who have mostly made up their minds about a particular issue, and believe in their ideas strongly enough to work with like-minded people to change public policy"*. On the sort of information they are likely to provide, he says, *"while advocacy groups are quick to find fault with "mainstream" sources, they will be less likely to critically evaluate information that suits their particular view of the world"*.

(From: <http://www.slu.edu/departments/english/research/rcont3.html>)

The statement by MMAV in section 2 above is therefore worrying, but it is not entirely unexpected. One-sided analyses are common. We can see this with "gender analysis", which has the express objective of improving the situation for women. We see this in the Report of the (United Nations) Fourth World Conference on Women (1995). Paradoxically, and suggestive of advocacy research, while calling for gender analysis to be undertaken so as to identify issues, the results are already presumed in strategy objective I:

"I. Human rights of women

222. If the goal of full realization of human rights for all is to be achieved, international human rights instruments must be applied in such a way as to take more clearly into consideration the systematic and systemic nature of discrimination against women that gender analysis has clearly indicated."

This can be seen even more clearly in the New Zealand case. In 1996 the Ministry of Women's Affairs issued a publication called, *The Full Picture: Guidelines for Gender Analysis*. This document specifies the requirements for gender analysis in New Zealand. They differ somewhat from those in the Beijing document. To quote:

"What is gender analysis?"

Gender analysis:

- *examines the differences in women's and men's lives, including those which lead to social and economic inequity for women, and applies this understanding to policy development and service delivery;*
- *is concerned with the underlying causes of these inequities;*
- *aims to achieve positive change for women."*

The methodology advocated by the Ministry of Women's Affairs for the application of gender analysis promotes consultation with women only (see Birks, 1998d).

The methodology and aims of gender analysis indicate that it is advocacy research. Much of the research relevant to Family Court matters fits into the advocacy research category. I have discussed several examples and their implications elsewhere (Birks, 1998a, 1998d). In those papers I covered, among others, the Law Commission's Women's Access to Justice Project; the draft version of the Statistics New Zealand/Ministry of Women's Affairs Time Use Survey (since modified); the Department of Justice's *Hitting Home* study on men's domestic violence against women (Leibrich et al., 1995); and the New Zealand report on the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).

The overall effect is that of research presenting a narrow perspective. This can be illustrated further.

An Example: The Duluth Wheel

The Duluth Wheel has affected attitudes, impacting on fathers' contact with their children. It was influential in the shaping of the Hamilton Abuse Intervention Pilot Project (Dominick et al., 1995). It also affects judges' training, as shown in the following extract from *New Zealand Parliamentary Debates*, Vol. 541, page 1931 (questions on notice, 22 June 1994).

Domestic Violence - Court Judges: Intervention Training

1. ELIZABETH TENNET (*Island Bay*) to the **Minister of Justice**: *What steps, if any, has he taken to ensure that training in domestic violence intervention, based on the Duluth abuse intervention programme's power and control model, becomes mandatory for family court and district court judges, as recommended by the 1992 Victims Task Force report?*

Hon. D A M GRAHAM (*Minister of Justice*): *I am advised that judges now receive training in aspects of domestic violence, including the Duluth abuse intervention*

programme's power and control model, which was recommended in the Victims Task Force report **Protection from Family Violence**.

Elizabeth Tennet: *Can the Minister confirm that all judges are receiving this training, and how many more women and children will be killed or subjected to violence because of the lack of training of judges, as reported in comments made by judges such as the one who stated in a recent judgment: "It takes two to tango."?*

Hon. D A M GRAHAM: *I am aware that at the 1993 family judges conference a whole half-day was devoted to family violence issues. It included the presentation of a paper on the Duluth programme. Also, at the 1994 district court judges conference a session was devoted to family violence.*

Note Elizabeth Tennet's specification of women and children only suggesting that family and domestic violence is by men against women and children.

The Duluth Wheel is described in Graves (1995): " The Duluth Wheel map of violent and non-violent behaviour ... was devised by the Duluth Domestic Abuse Intervention Project, Duluth, Minnesota, USA, as the core of a 'perpetrator' programme to help men convicted of domestic assault to modify their behaviour away from violence and towards mutual co-operation with others."

Graves gives four principal criticisms of the model:

1. It assumes that violence is, in essence, 'male';
2. There is an implicit refusal - and in practice generally an explicit refusal - to acknowledge any violence done *to* men, especially by women;
3. *All* responsibility for reducing violence and for creating co-operation is assigned to men;
4. The methodology is intended to create responsible attitudes by challenging existing behaviour, yet programmes are often presented to men by women in a blaming, punitive environment, which is immediately counter-productive.

Graves' second criticism also applies to the Ministry of Justice's *Hitting Home* study (Leibrich, 1995) which only looked at violence by men. Graves presents gender-neutral and gender-reversed versions of the Wheel in addition to the standard version. These are useful as they show that men do not have a monopoly on these behaviours. The Wheel presents both "power and control" (control and abuse) and "equality" (constructive) approaches. In itself, this could be helpful as it shows that there are alternative ways for people to behave. In practice, couples are likely to exhibit a mix of controlling and equality behaviours as described in the Wheel. There is a danger that too much effort will be taken to identify controlling behaviours by men, and that one or two examples of these could be sufficient to label the relationship as a whole. Ironically, using the Duluth Wheel categories of abuse, common outcomes of Family Court interventions could be considered abusive of fathers (see Birks, 1998a, p.43).

There are other ways of looking at domestic violence, as in Pearson's study of women's violence (Pearson, 1997), in which she describes women as masters of indirect aggression (p.17) and situational abuse (p.142).

4. FUTURE DIRECTIONS

The most dramatic impact of policy on fathers is likely to be observed where fathers are not living with their children. Attitudes towards and the treatment afforded these fathers are likely to have a far more widespread effect, however, as it would also reflect on other fathers. This is especially so if Doherty's finding on the importance of contextual factors is correct. In this light, it is encouraging to see specific acknowledgement of the perspective of fathers in a report by the Department of Health and Human Services in the U.S. (Nord and Zill, 1996). It recognised, "... a need for more research on non-custodial fathers -- the stresses they face, how they cope, their emotional adjustment, how they feel about changes in their parenting role, and factors that alleviate stresses." Several of the DHHS report's policy recommendations were aimed at reducing stress so as to increase effective parenting by fathers.

There is also need to pay attention to the nature of father involvement, rather than simply following the approach adopted in New Zealand of "enjoyment of access". To quote:

Given that most children desire the continuing presence of a father in their lives and that fathers may disengage from their parental responsibilities in part because they feel no sense of control over the new arrangements, steps should be taken to enable fathers to have a more active post-divorce role. There will, of course, be cases where this will be impossible because of the inability of the two parents to cooperate, because the father has no interest in remaining involved, or because of a history of past abuse. But, when it is at all feasible, policy should encourage paternal involvement.

- *Allow paternal role to continue, to the extent possible;*
- *Find ways to allow fathers to have a meaningful role in their children's lives where they can shoulder some of the **responsibility** of raising the child;*
- *Find ways to enable non-custodial parents to have some control over child's life.*

As long as the focus is on custody being awarded to one parent, with the other not having an effective parenting role, there is a danger that any perceived solution might be one in which more fathers had custody. This is not really a solution on its own, as it would simply mean that the same problems currently faced by so many fathers would be experienced by more mothers. Children would still be losing a parent. It would perhaps be more appropriate to foster and support the parenting role of both parents where possible. In the past year, several suggestions have been made as to how such an objective might be achieved. These are in addition to the more general issue of greater support for shared custody arrangements and a reassessment of policies on child support. Henaghan's suggestions (chapter 10) are relevant, and it is notable that several U.S. states have adopted a rebuttable presumption favouring joint (physical) custody.

Suggestions from the Family Law Forum held in Christchurch on 27 March 1998 (Birks, 1998c) included:

- Programmes for custodial parents who hinder access, along the lines of stopping violence programmes;
- Regular review of custody and access orders to check that they are working properly;
- Greater use of parenting plans and alternative dispute resolution procedures;
- Consideration of women's violence and passive-aggressive behaviour;
- More focus on solving problems before separation;
- Interim access arrangements aimed at preserving the parenting roles of both parents except for children at risk;
- More recognition of the on-going role of the father.

Additional suggestions for responses to the issue of obstructed access were presented in Birks (1998b) and included suggestions that the Court:

- treat the matter as one between the custodial parent and the Court, rather than allowing the children to see it as a dispute "caused" by the other parent;
- openly acknowledge that obstruction of access is emotional abuse of children;
- use section 20A of the Guardianship Act to impose a fine for obstructed access "without reasonable excuse";
- take a longer-term view and recognise that penalties, while possibly impacting on the children also, are likely to be beneficial through discouraging later harmful behaviour;
- act more swiftly to prevent the erosion of a father's relationship with his children, rather than ignoring the problem until it is "too late";
- consider community service during access time as a penalty, or reversals of custody for periods through the year to show a custodial parent what it is like to be non-custodial.

While these suggestions may be of benefit for families recently entering the system, there are cases where relationships between fathers and their children have already been severely damaged. In addition, there may be wider social consequences. Not only is the structure of society different, but also lessons have been learned which will impact on the future relationships of a large proportion of the population. Some of these issues are discussed briefly in Birks (1998d). It is important that we be alert to these matters. On a broader level, the closing remark in Birks (1998e) was a quote from Jefferson (1998):

"Perhaps, above all, the Family Court and family law could benefit from the development of a corps of knowledgeable and intelligent commentators, being neither apologists/spin doctors nor snipers, so that informed, rather than tabloid, debate about the functions and future of the Family Court can develop." (p.334)

The same applies to the research and policymaking community in general. We need to be informed, we need to be open to a range of information and perspectives, and we

need to debate regularly with perception and integrity. We then need to ensure that policies are implemented in a professional manner, and that the practitioners concerned are accountable and operate to high ethical standards.

REFERENCES

- Adamiak J (1995) "'Wait until your father gets home' – reflections of a 29(A) report writer", *Family Law Conference, Wellington, 2-4 October 1995, Volume One: Conference Session Papers*, New Zealand Law Society, pp.115-125.
- Birks S (1995) *A Few Brief Thoughts on Comparative Advantage and Custody*
<http://www.massey.ac.nz/~KBirks/gender/econ/compadv.htm>
- Birks S (1998a) *Gender Analysis and the Women's Access to Justice Project, Issues Paper Number 2*, Centre for Public Policy Evaluation, Massey University.
- Birks S (1998b) "Judges Can Have the Last Say", *Father and Child*, 2, March, p.6
- Birks S (1998c) "Family Law Forum", *Father and Child*, Special Issue, May, p.2
- Birks S (1998d) *Gender, Policy and Social Engineering*, paper for the New Zealand Association of Economists' Conference, Wellington, September
<http://econ.massey.ac.nz/cppe/papers/gpse.htm>
- Birks S (1998e) *The Family Court: A View from the Outside*, Issues Paper No.3, Centre for Public Policy Evaluation, Massey University, Palmerston North
- Blaikie E O K (1994) "Emotional abuse of children: some responses from the Family Court" *Butterworths Family Law Journal*, March, pp.77-82
- Branham C (<http://www.slu.edu/departments/english/research/rcont3.html>)
- Burgess A (1997) *Fatherhood Reclaimed: The Making of the Modern Father*, London: Vermilion
- Court reporter 1998a "Mother jailed for killing daughter", *Evening Standard*, 31 July, page 1
- Court Reporter (1998b) "Fatal stabbing linked to custody battle", *Evening Standard*, 30 October, page 2
- Court Reporter (1998c) "Man committed for trial on murder count", *Evening Standard*, 31 October, page 2

- Court Reporter (1998d) "Man acquitted of threatening to kill judge", *Evening Standard*, 19 December, page 2
- Department of Social Welfare (1998) *Towards a Code of Social and Family Responsibility*
- Doherty W J, Kouneski E F and Erickson M F (1998) "Responsible Fathering: An Overview and Conceptual Framework", *Journal of Marriage and the Family*, 60, May, pp.277-292
- Dominick C, Gray A and Weenick M (1995) *Women's Experiences of the Hamilton Abuse Intervention Pilot Project*, Wellington: Ministry of Health
- Graves T (1995) "The Duluth Wheel domestic-violence re-education programme - a revised methodology for generic use"
<http://www.massey.ac.nz/~KBirks/gender/viol/duluth.htm>
- Gray Matter Research (1996) *Male Inmates who were their Children's Primary Caregivers*, Wellington: Ministry of Justice
- Green D F (1995) "Custody and Access Disputes - Parents at a distance: Intractable Access", *Conference Session Papers NZLS Family Law Conference*, Wellington 2-4 October, Butterworths, pages 133-146
- Hardyment C (1995) *Perfect Parents: Baby-care Advice Past and Present*, Oxford: OUP
- Jefferson S (1998) "The Family Court in 2015: directions, challenges and threats - a polemic", *Family Law Conference, 31st August – 2nd September 1998, Christchurch*, New Zealand Law Society, pp.333-354
- Lapsley H, 1993, *The Measurement of Family Violence: A Critical Review of the Literature*, Social Policy Agency
- Leibrich J, Paulin J and Ransom R (1995) *Hitting Home: Men speak out about abuse of women partners*, Wellington: Department of Justice
- Listener/Heylen (1994) "MONITOR - Do children need a mum and a dad?" *Listener*, November 5, page 13
- Magdol L, Moffitt TS, Caspi A, Newman DL, Pagan J, and Silva PA, "Gender Differences in Partner Violence in a Birth Cohort of 21-Year-Olds: Bridging the Gap Between Clinical and Epidemiological Approaches", *Journal of Consulting and Clinical Psychology*, 1997, Vol. 65, No.1, pp.68-78

- Matthews L (1998) "Albury-Thompson's sentence reduced", *Evening Standard*, 20 October, page 1
- Ministry of Women's Affairs (1996) *The Full Picture: Guidelines for Gender Analysis*. (<http://www.ymwa.govt.nz/fullpicture/whtga.html>)
- New Zealand Parliamentary Debates*, 1994, Vol. 541, page 1931 (questions on notice, 22 June).
- Nord C W and Zill N (1996) *Non-Custodial Parents' Participation in Their Children's Lives: Evidence from the Survey of Income and Program Participation Volume II*, US Department of Health and Human Services, August, <http://aspe.os.dhhs.gov/fathers/sipp/pt2.htm>
- Pearson P (1997) *When She Was Bad: Violent Women and the Myth of Innocence* New York: Viking
- Rand D C (1997a) "The Spectrum of Parental Alienation Syndrome (Part I)", *American Journal of Forensic Psychology*, 15(3), pp.23-52
- Rand D C (1997b) "The Spectrum of Parental Alienation Syndrome (Part II)", *American Journal of Forensic Psychology*, 15(4), pp.39-92
- Report of the (United Nations) Fourth World Conference on Women, Beijing, China, 4-15 September 1995 (gopher://gopher.undp.org/00/unconfs/women/off/a--20.en).
- US Department of Health and Human Services (1998) *Child Maltreatment 1996: Reports from the States to the National Child Abuse and Neglect Data System*
- Zelas K (1998) editorial, *Butterworths Family Law Journal*, 2(11), September, pp.275-6.