

INCLUSION OR EXCLUSION: FAMILY STRATEGY AND POLICY

ISSUES PAPER NO. 9

Edited by

STUART BIRKS



**CENTRE FOR PUBLIC POLICY EVALUATION
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Introduction

"INCLUSIVE" VERSUS "EXCLUSIVE" APPROACHES

by Stuart Birks

This collection of papers arises from presentations at the conference of the Public Health Association of New Zealand, held in Palmerston North on 24-26 July 2000. The common theme in the collection is of "inclusion".

We see "inclusion" used in relation to policy objectives. Consider the concept of "inclusive" approaches to social policy issues in place of "exclusive" approaches which focus on individuals or groups in isolation. We see this applied in several areas. Relative measures of poverty are frequently used in preference to absolute measures because they are more likely to reflect people's ability to participate in the activities of the societies in which they live. In other words, they are included in, rather than excluded from, normal social life. Similarly note the reference to social well-being in the World Health Organisation's definition of health, "A state of complete physical, mental and social well-being".

It may therefore be considered an appropriate requirement for social policies that they be consistent with the inclusion of people. Policies which tend to isolate, set apart, or exclude may be considered harmful according to such criteria. We see statements to this effect from senior members of the current New Zealand government:

"For a democracy to thrive it needs strong institutions. It needs the political institutions of parliament and government to be robust and inclusive." Phil Goff¹

"...promoting human rights along with participatory and inclusive forms of governance and the rule of law itself enhances political stability and economic development." Phil Goff²

"[Labour's future for New Zealand] is inclusive, caring, and realistic. We say that in the end a society works best that works together, that emphasises its common bonds as well as common decencies." Michael Cullen³

¹ Goff (2000a), Hon. Phil Goff, Minister of Foreign Affairs and Trade, and Justice

² Goff (2000b)

³ Cullen (1999), Hon. Michael Cullen, Minister of Finance, Revenue, and Accident Insurance

"Every individual should have the opportunity to participate in the labour market - this is an important part of building an inclusive society." Michael Cullen⁴

"We aim to see parties working together on policy initiatives led by the Government. It is an important step towards creating a new culture of cooperative and inclusive employment relations." Margaret Wilson⁵

The concept of inclusion has been applied not only to the effects of policies, but also to the successful application of policies. To give some examples, in the arts:

"The Heart of the Nation Process will be an inclusive process through which the energy, passion and wisdom of people involved in the arts and cultural sectors can be harnessed to develop workable structures and processes and to contribute to policy development. It is more than simply a consultation process. The Heart of the Nation Process will itself facilitate co-ordination and cohesion as it brings people together, encourages discussion and debate, and promotes communication across communities, sectors, agencies, and cultures." Helen Clark⁶

In health:

*"... long term gains may be achievable with limited funds in programmes which ... involve members of the target group from the very outset of the programme and are sensitive to their needs."*⁷

In education:

*"... schools and parents/caregivers together are best placed to decide how the special education needs of individual students should be met ... Such decisions are more likely to be understood and supported if carried out with full consultation."*⁸

And a second education example:

*"You need to develop the experience for NESB [non-English speaking background] students right from their first contact with the school. If that moment isn't inclusive then you will struggle with the subgroup levels."*⁹

⁴ Cullen (2000)

⁵ Wilson (2000), Hon. Margaret Wilson, Attorney- General, Minister of Labour and in charge of Treaty of Waitangi Negotiations

⁶ Clark (1999), Hon. Helen Clark, Prime Minister, Minister for Arts, Culture and Heritage

⁷ National Health Committee (1998), p.38

⁸ Education Gazette (1998), p.1

⁹ Education Gazette (1999)

and the same source quoting Jannie van Hees:

"I think in many ways schools are leading society in their attitude change and their willingness to see it as an obligation to be inclusive and relishing it."

In addition to policy objectives and implementation, inclusion has also been considered in relation to research. This has been considered particularly relevant in New Zealand for research on women and on Maori, with the requirement that teams researching those groups include members of the groups.

Research practice also provides examples of inclusive and exclusive dimensions, both in the terminology used and the composition of research teams. To illustrate with terminology, consider data gathered on sole parent and two parent families. These are based on families defined as a subset of households. In other words they only consider people as members of a family if they are living in the same household. If parents are not living together, then one is, by this definition, excluded from the family. The definition further excludes the non-custodial parent when a custodial parent re-partners. The new partner is then considered to be one of the parents in a two parent family.

An inclusive composition of research teams requires the group being researched to be represented among the researchers. Hence, for example, a research team on Maori should include at least one Maori researcher, and similarly women researchers should be involved in research on women. Such reasoning is based on the view that perspectives taken and interpretation of results might be researcher-dependent, and that a researcher from the target group will be able to give a perspective and interpretation that others might be unable to do. In addition, research subjects might be more willing to participate and provide different information if they are able to identify with a researcher as one of "their own".

As the papers in this collection indicate, in reality the New Zealand policy environment is far less inclusive than might be expected given the above.

The first paper is by Harald Breiding-Buss. He writes from his experiences on "Involving men in maternity services". He discusses barriers to involvement of men and indications as to how these can be overcome.

The second paper, "Real dads – real men", describes the work of a team representing a public health provider, academia, and a grass-roots organization. This inclusive approach ensured consideration of policy relevance, research quality, and community involvement. In this sense it replicates the approach taken at the April 1999 Social Policy Forum in Wellington for which Issues Paper No. 4 was compiled and which led to Issues Paper No. 6. The team looked at fathers' experiences with child and family services in the Nelson/Tasman region. They felt that they obtained valuable results by providing "an environment and a process where the Dads felt safe, supported and valued in expressing their thoughts". Such results reinforce those in the

first paper, namely that fathers want to be involved, but do not always feel welcome and accepted.

The third paper, “Carrots or Sticks” is by Felicity Goodyear-Smith. It contrasts the "exclusive" power and control approach of the Duluth model of domestic violence with more interactional approaches that consider the family as a unit. The paper illustrates how theoretical perspectives can influence the selection and application of policies, highlighting the need for debate on the choice of theoretical foundations.

The fourth paper is by Paul Callister. He focuses on inclusion in research teams as a dimension of the research exercise. His description of inconsistencies in the practice of such inclusion indicates a possible weakness in current research for policy. His description of an attempt to suppress such criticism indicates that there may be a significant political input into policy-oriented research. This highlights the need for the independent think tanks recommended by the State Services Commission, as described in Birks and Buurman (2000).

The fifth paper further illustrates the political dimension. It describes the government case against the Shared Parenting Bill. It is relevant to the issue of inclusion for several reasons. The aim of the Bill was to include both parents in active parenting roles when parents lived apart, rather than supporting the more common exclusion of one parent as arises with prevailing policies. The case as presented could also be considered to be exclusive in that it took an extreme perspective which disregarded alternative viewpoints.

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Chapter One

INVOLVING MEN IN MATERNITY SERVICES

by Harald Breiding-Buss

1. THE PRESENT SITUATION FOR MEN IN MATERNITY SERVICES

The delivery rooms of our hospitals have undergone a small, but quiet, revolution. Both anecdotal and research evidence suggests that in excess of 90% of fathers now attend the birth of their babies, and they are encouraged even to attend a Caesarian Section. This is a remarkable change from the situation just a few decades ago, where men were not even allowed in the delivery room.

The most significant aspect of this change is perhaps that it was achieved without men marching down the streets holding up banners reading "Let me be with my Baby" or some such. The public discussion about the issue at the time did not revolve around men's presence at the birth being a *fathers* rights issue. The main argument put in favour for it was - and is - that *women* want their partners there to support them. And the main argument against was that this possible benefit is outweighed by men simply being in the way.

Ante-natal and post-natal care, as well as the delivery itself of course, are considered strictly women's health issues. When I ask men about why they attend ante-natal classes the most common answer is "because my wife asked me to". This is often interpreted as men not really being interested in birth, babies or children. However, service providers need to ask themselves whether they make the men feel welcome. If they are attending a service, which is a service for their partners, and if they are tolerated primarily because their partners want them with them, then the very common observation that men do not talk much in, for example, ante-natal classes makes perfect psychological sense. In my personal experience when facilitating such classes, how much men do talk is in direct relation to how much they perceive the service to be a service for *them* as well as their partners.

Men are tolerated in ante-natal classes and encouraged to attend the birth, but no such attempts in father involvement are made post-natally. This is an ironic situation: as long as the baby is in the womb a father can not really do much parenting at all. What happens at the birth is also pretty much out of his hands - even though he may very well be expected to make some crucial decisions. But only when the baby is out does a man actually have the chance to be directly involved - and at this time, suddenly, he is excluded from the information he requires to do a good job as a parent.

The underlying reason for our rather clumsy attempts at father involvement in maternity services is that little value is given to the father-baby relationship in itself, and society at large may have little confidence in a father's parenting abilities concerning young infants. But we do acknowledge the relationship between father and mother. The inevitable message that both new fathers and mothers at present get out of maternity services is that dad's involvement has to happen through mum, that his relationship to the baby is defined by how supportive he is towards mum, and how much she allows him to be part of it. The latter is often described as "gatekeeping" by mothers and is, of course, most pronounced in parents that do not live together.

2. MUM, DAD AND BABY - THREE GOOD REASONS FOR MORE FATHER INVOLVEMENT

It could be argued that the father's restriction to a supporting role during pregnancy, birth and the early months is simply an acknowledgement of - partly biological - realities. However, modern service providers may not actually have a realistic picture of realities, in particular about the extent of men's and women's desire to work together in parenting.

Reason One: Parents And Society Want Shared Parenting

The 1999 *Fathering in the New Millenium* study by the Office of the Children's Commissioner gauged the support for ideas of shared parenting (Table 1) by asking a cross-section of 2000 New Zealanders (Julian, 1999). The survey returned overwhelming majorities in favour of equal parenting between men and women. 92% agreed with the statement that "society should expect fathers to take an equal part in parenting", 94% disagreed that "looking after children is not manly". However, nearly half of respondents agreed that "women are better looking after children" than men, and the margin was significantly higher for men than for women holding this view.

Table 1: New Zealanders' views on role division in parenting. Adapted from Julian (1999)

	Agree	Disagree	Not sure
Looking after children is not "manly"	3%	94%	2%
Society should expect father to take an equal part in parenting	92%	5%	3%
Women are better looking after children	45%	47%	8%

[Men: 52%, Wom: 38%]

	Both Equally	Mainly/Only Mother	Mainly/Only Father
Discipline	96%	2%	2%
Helping with behavioural problems	94%	3%	3%
Helping with personal problems	84%	11%	1%
Being involved with sons	79%	2%	18%
Being involved with daughters	77%	22%	1%

In splitting up the responses into actual parenting problems, again large majorities were returned for shared parenting. between 77 and 96% of respondents believed both parents should be equally involved with parenting issues such as discipline, behavioural problems, being involved with sons or daughters.

However, men face a dilemma if society on the one hand expects them to be equal parents, but on the other does not trust their parenting abilities - or at least considers them secondary to mother's. The difference between 92% of New Zealanders (including about as many men) wanting shared parenting and 47% (including significantly less men) believing men are as good at parenting as women reveals a "confidence gap" that needs to be closed before shared parenting can become a reality.

My own experience in facilitating both ante- and post-natal classes and groups very much reflects such attitudes. In my ante-natal groups I often do an exercise where I have the men and the women - in separate groups - fill in lists of what they think is the role of the mother and the role of the father. Neither the men's nor the women's groups usually return with significant differences in the father's or the mother's role. What often does show up in the men's group is the expectation for a clear gender division in the respective roles for a limited period of time - 6 months, a year. However this is outweighed by the expectation that investing emotionally, timewise and financially, they will be privy to similar emotional rewards that the mother receives: a similar bond, similar acknowledgement.

In a society with clearly defined roles for men and women there would be nothing wrong with limiting a father to the role of supporting the mother. While I wouldn't suggest that in our today's society there no longer are any clearly defined roles for men and women, both men and women clearly have much greater expectations that they can make choices that *cross* traditional gender lines.

Reason Two: Women's Health

There are women's or child health issues that ask for more father involvement, such as post-natal depression or breastfeeding, in both of which the father's involvement or non-involvement has been shown to make a huge difference to the outcome for baby and mother. Recent years have seen a significant decline in breastfeeding rates and a corresponding increase in women returning to work earlier after the baby is born. Ante-natal education has somewhat adjusted to including information about pumping and storing breastmilk, but there is still a lack of consideration on who administers the pumped breastmilk to the baby. The father is normally one, if not the main, person doing this - or he is, at least, very important in attempting it in the first place. Educating him directly about breastmilk storage and breastmilk feeding not only relieves the mother of the need to take all the initiative and teach him about it, but also acknowledges his importance in the process.

A detailed description about the Father&Child Trust's involvement in the Christchurch Plunket Society's post-natal adjustment programme is beyond the scope of this paper (see Morgan et

al., 1997, for the concept). Research has strongly indicated the benefits of partner involvement in the healing process for women's post-natal depression, and there is also concern for the mental health of the partners of these women (Campbell et al., 1992; Webster et al., 1994). The involvement of the partners in the Christchurch programme has led to the spontaneous formation of a support network of the partners in two out of three cases. If a father is not fully involved in the maternity care of his partner it will make it harder for him to deal with such situations that can put a great strain on the relationship between the partners and the family as a whole. It also means that he is not as beneficial to the process as he could be. In not involving fathers in maternity services, we are letting women down.

Reason Three: Parenting of Young Children

The economic circumstances of today's families have changed quite dramatically since the early 80s (Callister, 1998). Still, fathers are the primary income earners for the vast majority of two-parent families, but it is worth to take a closer look at the circumstances of this setup. While 20 years ago, "Primary Income Earner" usually described a man that is at work from Monday to Friday, 9 to 5, we are fast moving to this work arrangement becoming a minority model. In the United States it already is.

Even though mothers are rarely the *main* income earners, about half of mothers with pre-schoolers do contribute a significant income - and while they are working the primary childcarer is dad. Dad may be working regular night- and/or weekened shifts, while mum holds down a part-time job for a few days a week. Such a family would appear in the statistics as a 'traditional' family, and yet the father may not only be the primary income earner but also spend more time with the children than mum. Such cases are not hypothetical, but the reality for many New Zealand families (see Breiding-Buss, 1998).

Anecdotal evidence is available to anyone who looks around on an average weekday morning in an average neighbourhood. Men pushing prams or carrying young children have become a common sight not only on weekends. They can be seen in park and swimming pools. Economic reforms have meant that men have to work more hours for the same wage, but they have also meant that they spend more time with their children - alone.

Given that midwives and Plunket nurses are people who are very important for many women in developing their post-natal support networks and support systems, systems that help them to be adequate parents while getting support for their own needs as well for years to come, not involving men in this robs them of the opportunity to form such networks and support systems for themselves. As a result young children spend more and more time alone with a parent that is entirely unsupported, has very limited access to parenting information, and may as a result feel isolated and perhaps have low self-confidence. In not involving men in maternity services we are letting children down.

3. WHAT NEEDS TO CHANGE?

Any provider of a service needs to think about: who is their client? For maternity services, mum, dad and baby, should be the recipients of the service. The fathers' role at the birth should not primarily be considered as that of a support person for the mother, even though this will inevitably be a big part of how he sees himself. Her partner's presence tends to make a mother more comfortable and more in control with the birth process. But first and foremost the father needs to be seen as a client, who is undergoing a great practical and emotional change in his life. He takes part in an event that a majority of US men rate as the biggest event in their lives.

If maternity service providers see the father as a recipient of the service, how will he be prepared? His partner may have vowed not to use any painkillers to interfere with the birth experience, but may change her mind very vehemently once the birth is in progress. Or his partner's eyes may be on him when after three hours of pushing the decision has to be made whether or not forceps should be used. It is a common experience that mothers put their partners in the position of decision-maker if they don't feel confident enough in a particular situation to make that decision themselves. And, indeed, in most cases no other person in the delivery room will know that woman as well as her partner. No other person - not the midwife, not any doctor, nor any nurses - has the potential to assist the mother in the decision-making as well as he, because of the bond they share and the many discussions they will have had about their expectations for this day.

Maternity services also play a significant role in determining to what extent parents feel free to exercise their choices regarding their parenting arrangements. Society often takes the view that men take a secondary parenting role - and women the primary - because it is "in our genes". If this was so, however, providers of services to parents would have to put special emphasis on fathers parenting skills to meet society's objective of equal shared parenting. The opposite is true:

Maternity service providers - like virtually all parent service providers - employ a "mother-as-primary-caregiver" philosophy. This manifests itself in the targeting of all services to the mother only - information, practical support, education etc. Evaluation forms are usually not handed out to fathers, underlining the fact that service providers do not consider fathers their clients. However, a person that receives support and education is more likely to develop into a confident caregiver with a sense of being needed, is more likely to establish a "primary" bond with a baby than a person who does not. The "secondary" caregiver instead perceives his involvement with baby as a long list of chores without reward, responsibilities without the power to participate in decision-making, a sense of being used rather than needed. It is not surprising that many young fathers start to feel more comfortable at work than at home, because it is only at work that their efforts reap some rewards. As I have argued in more detail in an earlier paper (Breiding-Buss, 1999a), encouraging a primary-secondary caregiver model means encouraging stereotypical roles for men and women that initially they did not want. It means taking a choice away from them, and it means setting the scene for a relationship breakup if their expectations are disappointed.

Instead service providers should adopt a team model as their underlying philosophy. They should assume that decisions on all aspects of parenting are made by both parents together, that the caregiving is shared and that both will have a significant degree of involvement. I have outlined structural problems of parent service providers and possible solutions in an earlier paper (Breiding-Buss, 1999).

Maternity Service Providers need to put more emphasis on the relationship changes that childbirth brings about. Childbirth, especially but not only the first child, represents a huge change for the woman, for the man, for their relationship with each other and also for the relationships with practically everybody else. Grassroots community support is not very strong in New Zealand contemporary society, and cannot be relied on to effectively coach parents through those changes.

Also, many parents now live physically too removed from their own extended families for them to be much help. State services, such as maternity health services, have to take some of the responsibility of supporting, helping, teaching, guiding new parents, but without taking any choices away from them.

4. HOW CAN FATHERS BE INVOLVED?

An essential ingredient in any programme that aims to involve fathers is bringing in men as co-facilitators in such programmes.

In both, the ante-natal classes and the post-natal depression groups I facilitate or co-facilitate there is one evening focusing on relationship and partner issues. Usually I divide the group in men and women, but often they are not told before the class. The focus of these groups is, initially, on the question of how best to support their partners. However, the common experience is that the men very quickly start talking about their own issues without having been prompted. In two out of three post-natal depression partners groups I facilitated the men spontaneously formed a support network and kept meeting by themselves. Such experiences confirm the idea that the observed quietness and seeming emotional distance of fathers in ante-natal and other groups are a result of the facilitation being unsuitable to men, rather than the men being uninterested or unmotivated. A detailed description of successful facilitation techniques for men's groups is beyond the scope of this paper, however some very useful work has been done for instance by Lynch (1994), and facilitation of men's groups in ante-natal classes has been described in more detail in a specific resource on the subject by the Father&Child Trust (Breiding-Buss, 1999b).

Russell et al. (1999) have pointed out the effectiveness of informal (i.e. non-face-to-face) provision of information to fathers, such as through the internet or the media. Such avenues are also explored by the New Zealand Father&Child Society.

I believe with the approaches described above we are only beginning to explore the potential for partner involvement in maternity services. Why should ante-natal classes not be

male/female co-facilitated throughout, or be held as weekend events with more emphasis on networking between the parents, bot the mums and the dads? Why not involve the men from the first week in a post-natal depression programme, instead of just one evening at the fourth as it is now, and give them the information, the skills, the support they need to keep their families together? I believe more innovative and sometimes experimental approaches are needed to achieve the equality in parenting that New Zealanders so strongly want and to give our children two competent and confident parents.

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Chapter Two

REAL DADS - REAL MEN: A STUDY OF FATHERS' EXPERIENCES OF CHILD AND FAMILY SERVICES IN THE NELSON/TASMAN REGION AND THEIR SUGGESTIONS FOR "FATHER FRIENDLY SERVICES"

by David Mitchell, Philip Chapman and Carol McIntosh

OVERVIEW

New Zealand families are changing and men are becoming more involved in child rearing. The reasons for this are varied. They include voluntary choices, changes in employment status, changes in family make-up from 2 parenting to custodial or non-custodial parenting and shared parenting arrangements. Much is being written and promoted at present about the importance of fathers in their children's lives, but as with all social change in our society, not all the conditions to support this movement are ever in place at one time. For example, services that work with families, while welcoming more father involvement, are unsure of how to make their services more attractive or accessible to fathers.

To support the increase of fathers in the role of caring for their children, we may have to make some changes to the way child and family services are presented to this group. To assist with determining what these changes may be this project sought to ask men involved in part or full-time care of their children what they would like from child and family services.

It should be noted that the term "child and family services" is defined generally and includes such areas as health, educational and social services. The reason for this approach was that it was not considered appropriate to identify specific service providers, indeed this may well have been counterproductive to the overall aim of the project.

This project is built on a range of successful initiatives in the Nelson/Tasman region. These began in 1997 with a promotion built around Fathers' Day. The promotion included interviews, newspaper articles, radio advertising as well as bumper stickers and booklets titled "Kids need Dads". The booklet included an invitation for fathers to join a "Real Dads, Real Men" group (essentially a support group for Dads). From this promotion a group was formed and continues to meet to this day with 10 fathers attending regularly and a mailing list of 30. Since then the "Real Dads, Real Men" project has kept a high profile in the community through newspaper, radio and television coverage. During this time one of the organisers, Philip Chapman, was elected inaugural president of the New Zealand Father and Child society.

Currently, the “Real Dads, Real Men” group continues to meet on a regular basis, and attracts Dads from all walks of life. A “Dads and Kids” group also runs one morning a week. The continuing aim is to promote and support how Dads can and do make positive contributions to the development of their children.

It should also be noted that the term “Dad” is used throughout this paper rather than that of “father”. This was the preference of all the men we asked.

THE RESEARCH QUESTION

This project aimed to build on the initiatives mentioned above and gain information from Dads about their experiences of child and family services in the Nelson/Tasman region, with the aim of enhancing their use of these services. In addition, it was hoped to identify suggestions for new services that would target Dads as their clients.

The project intended to look at the experiences and ideas of Dads generally, then to look more specifically at Dads who live in rural settings as well as single fathers. (The rural and single Dads were considered to be potentially more isolated than others).

“There's no use expecting a whole pile of people to change when they probably don't know the difficulties that (Fathers) experience.” Nelson Dad

THE PROJECT TEAM

The project team involved three people from quite distinct yet complementary areas. Carol McIntosh from Nelson Marlborough Health Ltd., Philip Chapman from the Nelson Dad's support network and David Mitchell from the Nelson Marlborough Institute of Technology. This collaborative approach was considered advantageous in several ways. Firstly, it brought together 3 people with quite differing expertise and experience, as well as the support offered by three different organisations. Carol McIntosh kept the team on track with her vision of the more broad and long-term issues related to health promotion for Dads. Philip Chapman brought skills and a talent for developing and supporting men's networks both locally and nationally. His energy and ability to “get alongside” Dads proved immensely valuable. David Mitchell brought experience in research in the area of men's health, especially with research that promotes collaboration with and a degree of ownership for the participants.

More importantly, all three team members brought to the project a commitment and history of involvement in men's health in general and to fathering in particular. This blend of skills and empathy went a considerable way to ensuring the success of the project.

A REVIEW OF THE LITERATURE

The traditional roles of men in families are changing. Between the years 1986 and 1996 the number of solo parent families where a male is the sole parent grew by around 49% from 19083 to 28491 with 17% of solo parent families headed by men. (Statistics New Zealand, 1998, as cited in Julian, 1998). Put another way, there are around 349,000 men engaged in child rearing in New Zealand. Of this number, around 28,000 are the principal caregiver (ibid).

P. Callister (1998) in his analysis of the changing lives of New Zealand fathers, noted that changes in the labour market and family type over the last two decades meant that in New Zealand:

- There has been a dramatic decline in the ‘traditional’ two-parent family, where the father is the sole income provider and the mother stays home and looks after the children.
- A significant number of men has actively chosen to spend more time with their children.
- A further group of men have had the opportunity to spend more time with their children thrust upon them through the growth in male unemployment.

Overall, it was concluded that these changes have resulted in some Dads having a lot more involvement in the day to day care of their children. Alongside these changes there have been other changes that affect the manner in which our society is coming to view parenting and the contribution of people to this task.

Over the past few decades there has been a move away from a focus on gender differences being related to biological sex (in this case parenting differences). This change is generally supportive of the position that differences related to gender are more to do with the impact of socialisation processes rather than biology. As one researcher stated when talking about trends in childrearing, “(we are moving towards a) society where gender is not a major issue in parenting, and where each parent performs those aspects of a parent’s role for which they are best suited as individuals” (Julian, 1999, p2). This perspective has been referred to as a more androgynous approach to how we regard gender (Grady, 2000). The replacing of the terms mothering and fathering with the generic term “parenting” is an example of language that supports this.

While there are more moderate views, such as the point that “gender roles are a complex, but still uncertain mixture of social construct and biology” (Callister & Birks, 1999, p34), this changing perspective does seem to provide for an environment where the abilities of people, regardless of gender, can be recognised. An idea that seems to have many exciting possibilities as we enter the 21st century.

However, this move has some important implications in regard to the provision of parenting services. In order to recognise the abilities of all, we need to be aware of contributions to parenting that may differ between groups, including those related to gender. In regard to

fathering, awareness of abilities that may be specific to Dads is lacking in the literature. There is a danger that, by focussing on a more androgynous approach to parenting the “lack of voice” of Dads may worsen. Indeed, in a recent report regarding service provision for families by a national service provider males accounted for 4.9% of the participants yet the findings were applied to families in general (Sanders *et al*, 1999). Put another way, by using generic terms (such as parenting) the danger is that those without a significant voice become even more invisible.

A focus group project asked 14 groups of men and women “What is the role of fathers in New Zealand” and “What are the obstacles which prevent men from carrying out the fathering role the way they would like to”. (Julian, 1998, p9). Results showed a general agreement that one of the main barriers to men becoming good fathers was stereotypes fostered through attitudes and conditioning and supported through the media. The focus groups also commented that the fathers who met the ideals were often unrecognised outside of the immediate circle. They often felt unsupported, and sometimes experienced discrimination in their role.

It has also been suggested that, contrary to the generally accepted belief that men are reluctant, perhaps unable to share experiences of emotion and vulnerability, when men are asked for their opinion they give of their views freely (Dye, 1998).

As one researcher noted, it seems that

Given the changes in society with women returning to the workforce, the rise in (the) number of single parent families, and particularly the rise in the number of single fathers taking primary responsibility for the raising of their children, it is essential to try to understand the father’s role and how this can be best enhanced to the benefit of children. (Julian, 1999, p8)

The belief that Dads are distant from the more direct aspects of childrearing is common in our society, and it seems, internationally (in western countries at least). However there are other ways of framing this view. As one writer suggests, it may well be that while the more direct, home based, care is the more obvious contribution, there are other approaches to care that are less visible; that the contribution of Dads is less visible but an equally committed labour (Burgess, 1997; cited in Dye, 1998). Put another way, “men who feel supported by their wives in finding their own ways of doing things soon develop a strong connection with their infants.” (Burgess, 1997, p138).

When working with families service providers often overlook the needs of the Dad and interact almost exclusively with the mother (Griffith, 1997; Julian, 1999). Compounding this situation, is the suggestion that Dads need to be supported in a manner that differs from that generally used in service provision (Brickell, 1998; Gamble & Morse, 1992). Overall, it is suggested that the experience of parenting for Dads is quite distinct from that of women and

that service providers need to recognise and support this. As one writer suggests, “Services supporting parents have to find ways of helping Dads forge their new role in society” (Brickell, 1998, p8).

It is encouraging that a representative of a national organisation involved in relationship services has indicated that designing services to meet the needs of fathers is an initiative they plan for the year 2000. (Hine, cited in Birks & Callister, 1999).

Perhaps in recognition of this situation, there are a number of people who have written guides to fathering (Sears, 1988; Gould & Gunther, 1993; Guinness, 1996). However, this information is usually written from personal experience. The amount of information that has been collected and analysed more rigorously, such as more research based inquiry, is meagre.

“I’m here, I’m a Dad ... listen to me.” Nelson Dad

METHODOLOGY

From the literature review on fathering it was found that there is a noticeable lack of information to assist in understanding the reality of life for Dads. This lack of information suggested the project should be considered quite exploratory in nature. A critical social approach was chosen to inform and guide the project. Critical social theory has been described as a perspective that seeks to uncover existing social inequalities focussing on empowerment and change for those people affected by these injustices (Berman, Ford-Gilboe & Campbell, 1998; Smith, 1998). It was a shared belief, held by the project team, that change was most likely necessary in the area of service provision and support generally for Dads. It was believed that the voices of Dads are largely unheard and also that they have quite distinct needs that are largely unknown. In addition, supporting Dads requires a range of skills that are poorly recognised, taught and practiced.

It was felt that this project could, in some way, be a catalyst for positive change for Dads. It should be noted that critical social perspectives expect the research to be (at least in part) guided by the beliefs and assumptions of the researchers. This approach can be considered quite contrary to other, more traditional forms of inquiry where considerable effort is extended in protecting the research process from the bias of the researcher. Here, in critical social inquiry, the process is considered to be dynamic, evolving and changing as the research progresses. In a sense, this report is a record of this evolvment and change.

The project intended to “give voice” to the experiences of Dads, with the researchers providing an environment and process where this dialogue was able to occur. Here, the researchers act as interpreters of the information that is shared.

It should be noted that because of the subjective nature of this form of inquiry any attempt to generalise the findings of this project to a wider population should be treated with caution, however the process could be used anywhere. The project team believed that the approach

they planned to take would prove the most effective in providing suggestions for local initiatives that best reflected the needs of local people.

RESEARCH PROCESS

As the project was exploratory in nature, it was decided to use a blend of quantitative and qualitative approaches to data gathering to give as broad an information base as possible. To this end, a survey as well as focus groups were planned with the survey providing baseline information that could be explored in more depth in the focus groups.

The survey involved 150 questionnaires being distributed (with 134 returned). The questionnaires were constructed to gather quantitative information in 4 general areas. These being:

- demographic details of the participants (eg. age, income, location, family status)
- frequency of use of a range of child and family services
- perceived usefulness of these services
- barriers that were experienced in the use of services. Possible barriers were listed.
- feedback about the usefulness of possible services A range of possible services were listed.

The survey form was piloted to ensure that it was understandable and able to be used by the participants as well as the researchers. Several changes were made to the format in response to feedback. For example, it became obvious that the Dads preferred to respond to scales and direct questions rather than open questions.

Inclusion criteria for participants were that they defined themselves as Dads who were caring for their children on a full or part-time basis. Participants were recruited by a range of methods. Distributing information at a parenting seminar as well as a Dads group proved very successful as did informal approaches. The Dads seemed to much prefer a face to face encounter. Newspaper ads and posters were used with only limited success.

Survey participants were also asked if they wished to be involved in one of three focus groups, one group open to Dads generally, one to Dads from rural settings and one for single Dads. Each group was limited to no more than 12 members.

Focus groups have a number of advantages over other forms of data collection. These include the ability to provide rich data quickly and also, perhaps most importantly, they are able to provide information of greater depth than what could be achievable through individual interviews. A process that has been referred to as a “synergistic” effect (Morgan, 1995).

To be consistent with the aims of the Dads having a sense of ownership of the project, focus group participants were asked to respond to one question only - “What needs to happen to make child and family services more father friendly?” Facilitation of the group was then

aimed at keeping participants on track with this question. A “brainstorming” approach was encouraged where group members were asked to support contributions positively and consciously avoid critique and criticism of ideas. After identifying a range of suggestions on newsprint and discussing these so that there was as close to a consensus of understanding as possible, participants were asked to rank the most important suggestions. Essentially, the participants did the first two levels of data analysis themselves; those of identifying and ranking themes in order of importance. The focus groups were audiotaped.

Each focus group had a summary of the dialogue and priority areas drafted. The draft summary was presented back to the participants to ensure it was an accurate record of the group’s discussion and suggestions.

ETHICAL AND METHODOLOGICAL CONSIDERATIONS

The project obtained ethical approval from the Nelson-Marlborough Ethics Committee. Many of the Dads, when first presented with the survey were unable to comprehend and respond to the questions as was expected. In particular, many of the participants were unable to understand that the survey was about *their* experiences of services. They answered for their partners and children. It was as though they were quite unused to considering themselves as a valid recipient of support from child and family services. Perhaps the survey should have started with a more fundamental question that assisted the Dads in shifting their thinking to consider their own needs.

When these Dads began to make a shift to that of considering their own needs, many found this a new experience. During both the survey and the focus groups, many Dads commented that they had never considered parenting issues from the perspective of a Dad, having always considered parenting from the perspective of supporting the mother and child(ren). Thinking of their own needs as a parent, as well as how these needs could be supported, was a completely new experience for them.

These observations suggested to the project team that researching the experiences of men, particularly research of a critical social nature, requires a great deal of attention to supporting the participants through (and after) the process.

Initially the project team had considerable difficulty defining a number of key terms. For example, who is a Dad? Is it the biological parent? What about step-parents? What about grandparents? It was finally decided that for the purposes of this project a Dad is whoever defines themselves as a Dad. The team acknowledges that this is a contentious issue, and many may not agree with this position.

Similarly, definition proved difficult with the term “family status”. It was decided to categorise family status in 5 categories from a “single Dad” to a Dad with “limited access”. Again the team acknowledges the wide variety of family responsibilities that men experience and that limiting this variety to 5 categories was a quite arbitrary decision.

"I believe the high level of interest and response rate was in some part due to the field workers ability to meet the Dads in places and at times that suited them." Field worker

RESULTS OF THE SURVEY

The demographic details such as age, income and family status of participants, appeared to be consistent with the data that was available for the Nelson/Tasman region.

What was unexpected was the high number of single Dads who responded (N = 19) and, disappointingly, the low number of younger (<20years) who responded (N = 0).

Questions related to child and family services included health related, educational, government, legal and social/recreational services. Participants were asked to rank their frequency of use and perceived usefulness of these services.

GPs were, predictably, the most frequently used health related service and were also considered the most useful service. Obviously, something is happening here that Dads find supportive and helpful. Antenatal/postnatal services were the next most frequently used but their perceived usefulness was not the highest of the services mentioned. However, with single Dads, there was an exception. This group found antenatal/postnatal services the most useful service in this category. It seems that when males visit these services as the primary caregiver, they find the service more supportive.

With educational services early childhood services were, again predictably, the most frequently used service by the Dads and these were also considered the most useful. Schools were the next most used service but here the opinion was that schools were the least useful in regard to providing support for fathers.

With Government and legal services government agencies and lawyers were found to be the most frequently used services, with lawyers found to be the most useful.

With social/recreational services, recreational and sporting groups were found to be the most frequently used service and also the most useful.

When asked to identify barriers that were experienced with service provision (out of a check list of 15 possible barriers) the Dads identified understanding and respecting their needs as a Dad was the area most neglected.

Participants were asked for their suggestions for local and national initiatives to better support Dads. Locally, they voiced a need to know what was available, especially those that have an educational element.

Days out for dads ... more courses for Dads. Learning how to be a better dad to their kids.

As well as greater access to support groups. For example, as some participants noted,

Men's health/support centre. Workshops. Information on importance of dads and suggestions on how to be an effective dad - handouts, pamphlets.

Accessible time and place for men/dads to meet (other than the pub). Campaign for decent communication between men. Days out with kids.

Nationally, the respondents consistently voiced a need for awareness raising about the realities of life for dads and parenting. Again, as participants noted,

Be made more widely known that men are just as important in the parenting role and solo dads are given the same respect as solo mums.

A deeper understanding of what it is to be a dad.

RESULTS OF THE FOCUS GROUPS

The 3 focus groups consisted of those representing Dads generally, Dads who lived in rural settings and single Dads. The groups met for around 3 hours each and were asked to respond to the question "What needs to happen to make child and family services more father friendly?" As the process of discussion was relatively unstructured, the Dads in each group had a considerable impact on the direction of the dialogue. What follows may seem to depart somewhat from the original question but it was felt important to balance the need for specific data with a trust that the Dads would themselves identify and explore those areas that were of importance to them in relation to the topic. As mentioned earlier the project was aimed at the Dads themselves having a sense of "ownership" of the project.

There were a number of general themes that emerged that were common to each group.

(i) Awareness raising

This was the first area identified as requiring attention, and included:

- **Exposing stereotypes and myths related to Dads and parenting**

The role of the media in perpetuating negative images of dads was strongly emphasised in each of the 3 groups, especially in regard to the wider issue of the general contribution of males in society. As one participant noted,

Men are often portrayed (in the media) as the village idiot.

There was prolonged and energetic discussion in relation to this area. Discussion then moved on to a similar topic, that of

- **Education about the real-life experiences of Dads**

Again, this area was considered vital with all 3 groups with the belief expressed that experiences of Dads were largely untold. That there was ignorance in society about the realities of parenting for Dads. As one participant noted,

We need more input from fathers that have been there...done that. (Service providers) needed to address what the husband went through.

and another,

Possibly giving service providers more knowledge on what Dads want, to be able to respect the needs of Dads ...(that is) recognise and appreciate Dads.

Further, it was felt important to,

- **Promote positive images of Dads as being vitally interested and involved in the lives of their children**

Several national and local initiatives were mentioned but the group lamented that these were few and were vastly outweighed by negative images, and a perceived lack of value of the role of Dads. As one participant noted,

Some decent public education in terms of roles that fathers play and, perhaps more generally, the roles that men have to counter some of the culture of suspicion and fear that's out there. Why are we (society) so suspicious?

The second area common to each group was that of,

- (ii) **Accessible periods**

Each group talked of times when Dads were more present within services. It was noticeable that these times were also talked of as times of vulnerability when support was needed. The times when Dads were more present in the lives of their families were identified as

- antenatally,
- during the process of birth
- during the preschool years

In addition there were other times when Dads were particularly vulnerable and unsupported, such as at the time of

- separation and initially with
- step parenting

During the antenatal period and also the preschool years were described as being times when Dads were perhaps the most accessible. The group identified:

- **The importance of supporting fathers at these times.**

As one participant noted,

There's some point in every dad's life - they're open, before the door gets closed. That's the time to put other Dad's (and not professionals) alongside them. The key is knowing what their needs are and what the entry points are.

In particular, contact with agencies was more noticeable earlier in the life of the child.

By the time the kids get to 5 years of age, the men fall off somewhere along the line. How can we keep Dads involved? How can we keep Dads interested and not falling through the cracks?

The group felt that education of service providers and Dads during these times was vitally important and that there was a real opportunity here to support Dads in a direct, positive and productive manner.

Parallel to the idea of supporting Dads in this was the idea of

- **The vulnerability of Dads at these times.**

This theme differs markedly from the often cited perspective that men are detached, stolid and unemotional. The Dads found no difficulty at all in sharing a variety of stories and insights. Many of these describing situations of vulnerability and confusion. This point was made in relation to the experiences of Dads generally however the time of childbirth came in for particular mention.

Childbirth was one of the most traumatic experiences of my life ... that (perspective) is never portrayed. Seeing your partner in so much pain - the baby afterwards and all the emotions around it. Are you supposed to feel so helpless???

and with a reconstituted family,

I could bungle my way through biological parenting. Step parenting was a completely different ballgame. I didn't believe that til I discovered it. Really needing to grapple for some positive replacement, some more information, some more acknowledgment that the role of a stepparent is different.

These quotes portray something of the sense of confusion and even fear that accompanies Dads at various stages of their lives.

A third theme that developed through each group was that of

(iii) Getting alongside Dads

Initially this dialogue started with descriptions of service provision that were unsupportive of the Dads then moving on to describe those that were supportive.

There was some interesting discussion here. For example, in relation to language

What the hell does "Ante-natal" mean to a bloke? I mean ... if I went to work and said "ante-natal" amongst (my workmates) straight away it's a funny word that doesn't mean anything. Plunket's another funny word.

However, discussion invariably moved on to

• How best to support Dads

There were a number of suggestions here including, having services provided at more appropriate times.

Respecting needs to be an interactive thing ...for example, having Services open at appropriate times, things like that. Parent-teacher interviews when you don't have to leave work to be there for example.

Combined with the need for employers to be more supportive of the needs of Dads.

Perhaps employers need to be more flexible to accommodate Dads. For example, overtime, weekend work. I suppose you'd call that "glide time".

The need for "Dad friendly" services to be well publicised. A "Hot List" of these services was suggested.

Women's organisations have made quite a point of organising a "hot list" of (support people) ...For example that there are good lawyers for women, there are good counsellors. They understand the issues from a woman's perspective but at that time there was nothing (no information) for me. Why isn't that information out there? In terms of separation, Dad friendly lawyers are essential.

As well as a range of other suggestions including the need to involve other Dads, the value of Dads' groups and the provision of "safe houses".

There was one theme that emerged from the group of single dads. That of

(iv) Issues related to separation and custody

There was one area that prompted considerable discussion. That of

- **gaining effective representation**

There were several points made in relation to where support could be accessed.

It would be good if you knew who to go to ... not just any old jack sprat lawyer
... you just waste your money.

As well as questions about gaining support that was appropriate and respectful of their needs.

This lawyer said, "you're just wasting your time. I've got custody for women with needles hanging out their arm." So that's what we don't want. We want dedicated people that believe males are worth representing.

"For me as a father information is not so accessible. It wasn't offered to me, and when I went I went looking for it, it wasn't there." Nelson Dad

DISCUSSION

It should be remembered that, while this project aimed to gain information from Dads about their experiences of child and family services in the Nelson/Tasman region, another aim was to "give voice" to the experiences of Dads and to give them the opportunity to help direct the progress of the project.

While the research team had framed the issues to do with fathering directly in relation to provision of child and family services, the Dads saw this as but one of several issues that impacted on their lives.

One obvious example was the manner in which, during the focus groups, the Dads focussed on supporting each other even to the extent of developing a support group. Another was that the Dads saw the provision of services being affected by wider issues such as the lack of awareness generally of the reality of life for Dads. Indeed, there was a sense that it was vital to address the perceived negativity in myths and stereotypes towards men and fathering in society *before* working with service providers.

The process the project followed resulted in a great deal of data being collected. Rather than attempting to sift, collate and analyse all of this information, this section will look at commonalities and contrasts in the information gathered.

As mentioned, the Dads saw the major barriers to their role in parenting as being directly related to negative stereotypes and myths in society today. When this perspective is considered alongside the promotion of a more androgynous approach to parenting in more

recent research, the invisibility of fathering becomes a compounding factor. In essence, the lack of “understanding and respecting the men’s needs as a Dad” that was a finding of the survey can be seen as directly related to these developments. The Dads saw this situation as very serious, requiring redress in society in general and with service providers in particular.

In particular the Dads’ perspectives could be summarised as being related to

a. Awareness raising

There was particular support, both through the survey and in the focus groups, for seminars and other promotions focussing on Dads and their children – both at a national level and a local level. There were two distinct aims. Firstly to reduce the negative stereotypes and myths surrounding fathering with a focus on the reality of life for Dads. Secondly, to provide a sound education base for Dads themselves. There was a strong feeling voiced, especially in the focus groups, that this education and awareness raising should be carried out primarily by Dads themselves.

It is of note that while the researchers attempted to move the groups on from these points to focus on specific initiatives that service providers could implement, the Dads insisted on returning to them. Clearly they believed that before services providers (and others) could begin to respond to and/or respect the needs of Dads they needed to be aware of the impact of stereotypes and myths as well as hear something of the real life experiences of this group of people.

b. Issues re service provision

The survey indicated that Dads experienced a high degree of involvement and satisfaction in the antenatal and preschool environments. This wasn’t supported by opinion expressed in the focus groups. This may well be that the survey participants were often unable to identify their needs before those of their partners and children (as previously mentioned), whereas in the focus group they were able to frame their position differently. However, the focus group participants described their presence in the lives of their partners and children as being more noticeable at these times. They talked about being frequently there (or thereabouts), they were there to be of help (but generally didn’t know how to be of help) and they found it difficult to communicate their sense of isolation and difference, feeling as though services were unable to assist them in this area. It was consistently voiced that, because of this continuing sense of isolation and difference while they were with these services, their presence diminished as the children aged. One suggestion was that, because of the difficulties Dads experienced in being involved during these times, their energy and enthusiasm waned.

c. Specific initiatives

There was a distinct need voiced both in the survey and in the focus groups for improved access to information about parenting that focused on Dads. It is evident from the review of the literature that the current research focus, in New Zealand at least, is primarily exploring issues to do with “parenting” as a generic skill. What is clear is that, when the needs of Dads

are explored, they are quite distinct to that of mothers. However, the research that looks specifically at the needs of Dads is noticeably lacking. Generally we do not know what these specific needs are let alone how services can address them.

RECOMMENDATIONS

It is clear that there is an environment of neglect in issues related to men in general and Dads in particular. This neglect is even more noticeable when it is overlaid with a prevailing attitude that men find it difficult to express emotion and share their concerns with others. When one considers these tensions, it makes it extremely important that service providers, advocates as well as researchers are able to deconstruct these myths and stereotypes and work with and for Dads in a manner that is respectful, sensitive and supportive of their unique way of “expressing self.” The Dads in this project have made it obvious that, given a supportive environment, they are quite able, even eager, to share their concerns and hopes. It is the provision of this supportive environment that is so obviously lacking.

Recommendations revolve around 2 main areas.

a. Reducing the effect of myths and negative stereotypes about fathers and fathering by:

- Expanding the current focus in the Nelson/Tasman area on men and fathering to include awareness raising to reduce the negative stereotypes and myths surrounding fathering. Responses from the participants in this project indicate that these initiatives have been timely, welcomed and extremely useful.

b. Supporting and developing services for fathers by

- Supporting further research activity on identifying specific skills and processes that would enable service providers to best meet the needs of Dads. This project has identified that the needs of Dads are, in many ways, unique yet we know little about them. Developing a sound and valid information base is vital. It is also vital that men are involved in all aspects of this research.
- Developing educational programs that focus on the needs of fathers. This was an area that was considered most important, from both the survey and the focus groups. Again, it was emphasised that the processes that are followed as well as the content need to be considered carefully. The involvement of males is vital. Initially this package could focus on antenatal and preschool services
- Supporting the development of an advocacy service for Dads. The need for information and the problems with accessing this was a common theme. An extensive database of “Dad friendly” services needs to be developed and maintained as well as an advisory service.
- Continue and further develop support groups for dads. Responses indicate that these are very useful but need more effective promotion on an ongoing basis

IN CONCLUSION

What seems quite remarkable is that far from being the silent and distant people who find considerable difficulty in expressing emotion, these men shared their experiences openly and enthusiastically. They talked with considerable interest and passion for their parenting role and they shared stories of vulnerability and pain. They also demonstrated an ability to work together in developing new insights into their world as well as creating solutions to complex problems.

The Dads typically communicated in a very direct manner that many may consider blunt. The use of humour, often rather pointed, was another feature. The challenge for the researchers was to provide an environment and a process where the Dads felt safe, supported and valued in expressing their thoughts. The process that was followed clearly enabled the Dads to collaborate and develop creative ways of addressing problems as they defined them.

"It's not just the men asking for assistance, it's the children as well ... it's about the children, it's not just me." Nelson Dad

NB A full report is available from:

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Chapter Three

CARROTS OR STICKS?

by Felicity Goodyear-Smith

'POWER AND CONTROL' DULUTH MODEL

The predominant model promoted by some leaders in the field of domestic violence over the past decade has been that violence is the tactic used by an abuser to maintain power and control over his partner.¹ Proponents of this view argue that even if the number of times men and women hit each other is about equal, this is misleading because the context is different: men use violence to control women, whereas women use violence in self-defence. Furthermore, the effects are different, because women sustain more injuries than men. Male violence is seen as a tool of the patriarchy, condoned by major social institutions.^{2, 3}

Spousal abuse is claimed to result from a power imbalance and lack of equality between men and women in marriage. Men are said to hold the power in the relationship, and the violence that occurs within marriages stems from this male dominance, ie domestic violence is a male abuse of power and control, whereas women use violence only as a last resort from a position of powerlessness.

Programmes to address the problem therefore focus on bringing the male assailant to justice, imposing and enforcing legal sanctions, and re-educating males while providing advocacy and support services for the female victims.⁴ The model adopted has been the Duluth Domestic Abuse Intervention Project (known as the "Duluth Model")⁵ which is seen as putting feminist theory into practice.⁶ Interventions require the men to acknowledge that they are to blame for any violence in their relationships, they feel ashamed of their actions, and to give their female partners more power in their relationships. Treatments focus on diminishing their power. Women are told that they are not to blame for violence in relationships, and interventions concentrate on strategies to empower them.

Mediation during marital separation is considered inappropriate if any domestic violence has been reported, because of the perceived power imbalance between husband and wife. Similarly it is considered inappropriate to teach men who have used violence in their relationships communication skills, self-esteem enhancement or assertiveness training because these remedies may result in more skilled and confident abusers.⁷

INTERACTIONAL (ECOLOGICAL SYSTEMS) MODEL

An alternative to the 'power and control' Duluth model is the interactional theory which views violence in terms of relationship dysfunction and sees the key to its management as the involvement of the family and the community. The pro-family or ecological systems model focuses on the relationship rather than the individuals and on giving family members other strategies to violence in resolving conflict. A couple are an interrelationship of individuals in an interactional system, and effectiveness depends on the success of interaction within that system.

There is a strong argument that that use of violence is not the act of a powerful man, but rather the act of one who finds himself relatively powerless. Rather than our institutions sanctioning male violence against women, there are strong social taboos against men hitting women. Traditionally men have been socialised to protect rather than assault their wives. On the other hand, there is a covert tolerance of women hitting men in our society in certain circumstances. A woman slapping a man on the cheek if he says something insulting or if she feels indignant about his behaviour is often portrayed by the media as an acceptable or even a desirable response. The Dunedin cohort study found that while women from all social strata were liable to be violent, there was an increased risk for men to be violent if they were poorly educated, unemployed, and lacked social supports.⁸ The data support the theory that most men are socialised not to hit women, and many do not retaliate physically even when women attack them. Men who use violence against their partners tend to be those with very little social power and resources to cope with stress. Another study found that male violence is much more likely to occur in relationships where the woman has a much higher socio-economic status or occupation than the man.⁹

A number of feminist commentators assume that most couples are in husband-dominated relationships.^{2, 10} However studies indicate that this is the power dynamic in only a small minority of relationships. One study of over 2000 USA couples found that about 9% of relationships were male-dominant; 7.5% were female-dominant; and the majority were either equalitarian or power-divided.¹¹ Marriages where the power is spread equally between husband and wife have less distress and a lower incidence of violence than either husband- or wife-dominant marriages.

While feminist theorists claim that women's violence only occurs in response to men's^{9, 12} evidence indicates that women initiate physical violence at least as often as men^{13, 14} and that at least half of partner violence is mutual.¹⁵ Studies indicate that there is male-only violence in up to 25% of cases, and in at least 25% of cases only the woman had used violence.^{9, 16}

A number of studies indicate that violence in relationships may be more a case of abusive relationships than abusive individuals.¹⁷⁻¹⁹ While some individuals might repeatedly either engage in violence with their partner, or chose partners who are violent towards them, there are also cases where it is the specific combination of two people which leads to the violence, and neither engage in violent activities in other relationships or with other partners. In the abusive

relationship, certain behaviours or responses in one partner provoke a violent reaction in the other. This data is inconsistent with the theory that women largely resort to violence only as a pre-emptive strike or in self-defence.

Studies of lesbian relationships indicate that battering is at least as frequent as in heterosexual relationships²⁰⁻²³ Because violence in these relationships is usually mutual, the model of 'victim' and 'perpetrator' has been considered not applicable, with the violent couple being considered co-participants.²⁴

Women are frequently the perpetrators of other forms of family violence, especially hitting children and abuse of the elderly. In these cases it cannot be argued that their violence is an act of self defence.

Women in western countries have considerable personal freedom compared to many other societies. If violence against women is due to male dominance, it would be expected to occur at a greater rate in more patriarchal societies. However available evidence does not support this. Studies of Hispanic, Japanese, Indian and American cultures found a lower incidence of wife-beating than in white American couples.^{25, 26}

Epidemiological research has consistently found that men and women engage in physical aggression towards their partners in roughly similar frequencies.²⁷ This finding is consistent in over 100 studies and across many countries, including the United States, Canada, Finland, and Israel.^{16, 18, 28-31} The Dunedin Multidisciplinary Health and Development longitudinal cohort study found that within partnerships, women used more physical violence than men.⁸ This was both women reporting perpetrating more partner violence than men, and men reporting more victimisation than women.³² However, far less defined this violence as 'assault' causing physical harm, and in those who did, more men than women were named as perpetrators.^{33, 34} Inter-relationship violence often starts very early in relationships, from dating on.^{17, 19, 35-46}

The current response to domestic violence, including the DV Act 1995 and the types of interventions provided under the Duluth model, was heavily influenced by the Hamilton Abuse Intervention Pilot Project (HAIPP) which defined domestic abuse as the psychological and physical abuse of women by male partners, and advocated automatic arrest and prosecution of men accused of partner abuse, as well as mandatory attendance at stopping violence courses. This definition was also used by the New Zealand Justice Department 'Hitting Home' study which reported a prevalence rate of 21% of men physically abusing their female partners, but did not examine women's behaviours towards men.⁴⁷ and is commonly used by service providers in the field.⁴⁸

EFFECTIVE EVIDENCE-BASED INTERVENTIONS

There is a large body of research that cognitive-behavioural interventions teaching communication and problem-solving skills are effective in treating marital discord.⁴⁹⁻⁵² This is the conclusion of three meta-analyses of marital therapy outcome literature.⁵³⁻⁵⁵

Similarly, several meta-analyses have found that a cognitive behavioural approach is the most effective correctional intervention in reducing reoffending.^{56, 57} The most effective interventions utilise behavioural and social learning principles of interpersonal influence, skill enhancement and cognitive change. Strategies that focus on blame or shame have not been shown to be effective.⁵⁸

There are many other contemporary commentators who are emphasising that carrots work better than sticks in changing behaviour. For example, in their book 'Supporting Families', Munford and Sanders offer a strengths-based model suggesting that in helping with parenting, it is more effective to stress the positive and offer encouragement, rather than finding fault.⁵⁹ Building confidence and a sense of control is likely to reduce the incidence of violent behaviour.

This principle is also recognised by advocates of restorative justice. At the Just Peace conference earlier this year Professor Howard Zehr promoted victim vindication by restoration rather than retribution. Both victim and offender might experience shame and humiliation and the process of justice may increase the sense of shame for all. While revenge is one way to get vindication, it transfers the shame back to the offender, just repeating the cycle. In responding to pain with pain, it may fail to deliver. The aim of restoration is to replace humiliation with honour – to acknowledge wrongs, put them right in a positive way. This helps transform the stories of both victim and offender, and offers honour and respect for both.

'Positive Partners, Strong Families'

'Positive Partners, Strong Families' is a community-based educational and skills-based programme teaching couples communication skills and strategies for problem-solving, goal setting and conflict resolution. The courses require active participation and emphasis is made on the importance of practice to master the skills and incorporate them into everyday family life. The course helps couples see their relationship as a partnership in which they are both 'on the same side' and find solutions to conflicts and problems with win-win outcomes for themselves and their children. It fosters a commitment to live with fundamental co-operative goodwill – to act in both their own and their family's best interest.

'Positive Partners, Strong Families' is an innovative programme using best-practice cognitive behavioural techniques adapted to the New Zealand context. It is based on a pro-family ecological systems model which views interpersonal discord and violence in terms of abusive relationships rather than abusive individuals per se. The programme utilises material from Professor Ian Falloon's Integrated Mental Health Care model which in turn is based on marital discord cognitive behavioural programmes. The courses are run by specially trained co-gender facilitator teams.

The programme focuses on future behaviour, operating under the premise that the present moment is not hostage to the past. We cannot change or undo our past behaviours, but we can change how we behave from now on. We are responsible for our own behaviour and responses. We can change our own behaviour, but not that of our partners or other people. However, if we behave and respond in new or different ways from our past patterns, the people we relate to may also change how they behave or respond.

This model does not ascribe to the theory that violence is an issue of power and control; rather violence is identified as frequently emerging in response to a sense of powerlessness and a perceived lack of other options. Teaching alternative non-violent strategies to resolving conflict within intimate relationships is therefore viewed as a means of preventing and reducing domestic violence.

'Positive Partners, Strong Families' was introduced with a rigorous process of evaluation from the outset. Research into the effectiveness of these courses is funded by the Auckland Medical Research Foundation and is being carried out at the University of Auckland with full Ethics Committee approval.

The course is primarily aimed at couples living in, or previously in, de facto or married relationships. Participants may wish to enrich an already well-functioning relationship, or they may be experiencing some inter-relationship conflict. It is optimal to learn these skills early, before less effective methods of communication have habituated. The course is therefore particularly suitable for couples early in their relationships, before destructive inter-personal behaviour patterns develop – for example, pre-nuptially, and pre-natally (before the arrival of a baby places increases stresses on both mothers and fathers). The course is also suitable for separated couples who still require to communicate and resolve conflicts in order to co-parent their children. While the skills are likely to be equally of value for same-sex couples, the courses are being piloted with heterosexual couples.

The programme is not suitable for the 5 to 10% of relationships where there is significant inter-personal violence, sometimes resulting in injury (predominantly involving male offenders and battered women), or that has already escalated to the point where police or court intervention has occurred. Such couples are excluded from pilot courses. Other exclusion criteria include a member of a couple suffering from a major psychological disorder or from drug and alcohol problems.

Evaluation involves collection of demographic and other background data; out-come assessment using repeated measures of two well-established validated scales (the Dyadic Adjustment Scale (DAS) which assesses the degree of agreement / disagreement in various aspects of a relationship and the Conflict Tactic Scale (CTS-1) which looks at the strategies couples use to resolve conflict) and process evaluation.

'Positive Partners, Strong Families' may help struggling couples choose to stay together and jointly raise their children. There is a small subsection of relationships where the man is seriously violent and is unlikely to change. In these cases, separation is necessary for safety issues. However a New Zealand study found that the majority of women who had suffered physical abuse by their partner wanted the violence to stop but did not want to leave their partner.⁶⁰ In an attempt to ensure the safety of women and children, many service providers view the separation of a couple as the desirable outcome.

Conclusion

The feminist 'power and control' theory of domestic violence holds men 100% to blame and women blameless and powerless. This simplistic model ignores the interactional aspects of domestic relationships. It is counter to evidence that domestic relationships are diverse and complex, and that women are seldom helpless in the face of violence nor innocent in its commission.⁶¹ It has led to interventions which have a punitive approach towards men, serving to polarise men and women and enforce the separation of couples. It has restricted and censored other approaches to the problem. This paper challenges the 'blame and shame' approach and advocates the development of multiple new innovative ways of addressing the problem, drawing on techniques which focus on individuals' strengths rather than their failings. 'Positive Partners, Strong Families' is one small example of ways to tackle the problem, using carrots rather than sticks.

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Chapter Four

RESEARCHING FATHERS IN NEW ZEALAND - WHOSE VOICES ARE WE HEARING?

by Paul Callister

INTRODUCTION

Changes in the labour market and in family type over the last couple of decades New Zealand have had a major impact on “traditional” models of fatherhood. Some fathers are now seeing far less of their children as they no longer live with them. Others still in two-parent families are seeing less of their children because they are working long hours in paid work. A further group of fathers have actively chosen to spend more time with their children by either becoming full-time caregivers or working part-time. And a further group of fathers have had the opportunity to spend more time with their children thrust upon them through the growth in male unemployment (Callister 1999a). Many of these changes, such as male unemployment, potentially have a negative impact on the well-being of those fathers affected. They can also have a negative impact on their children.

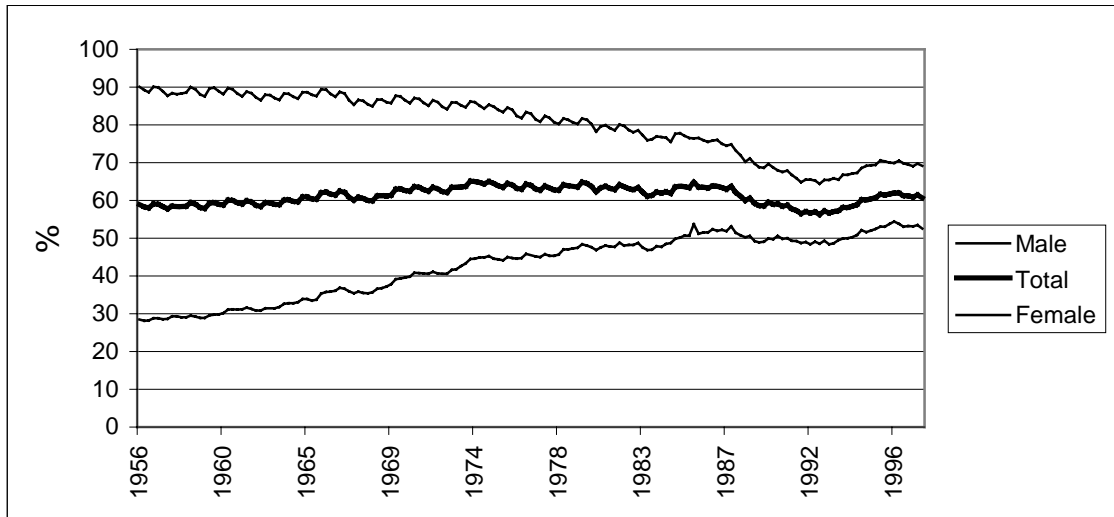
Men make up approximately half of the population. If we are concerned with the well-being of all groups in society then we need to know more about the changing lives of men, including fathers, and the particular problems they face. Some of this will involve quantitative research. However, in-depth qualitative research is also needed. There is also a need for debates to take place about appropriate methodologies for undertaking this research, including assessing whose voices are being heard through the research process.

As background to the main part of my paper, I briefly illustrate some of the changes that have taken place in terms of employment and living arrangements for men over the last couple of decades. Then drawing on debates about appropriate methodologies for researching the lives of women in New Zealand, as well as debates about researching families, I raise questions about the processes of researching the lives of New Zealand fathers. In doing so I refer to a large publicly funded New Zealand research project on fathers. I also briefly discuss a more recent small-scale study of fathers in New Zealand and some overseas research on fathers. While the focus is on fathers the issues raised have wider implications for other research into the well being of men.

CHANGES IN WORK AND FAMILY FOR NEW ZEALAND MEN

Figure 1 shows the long-term decline in employment of men aged 15-64 and the long-term increase in female employment. However, the 1980s and early 1990s were a time of particularly dramatic job loss for men.

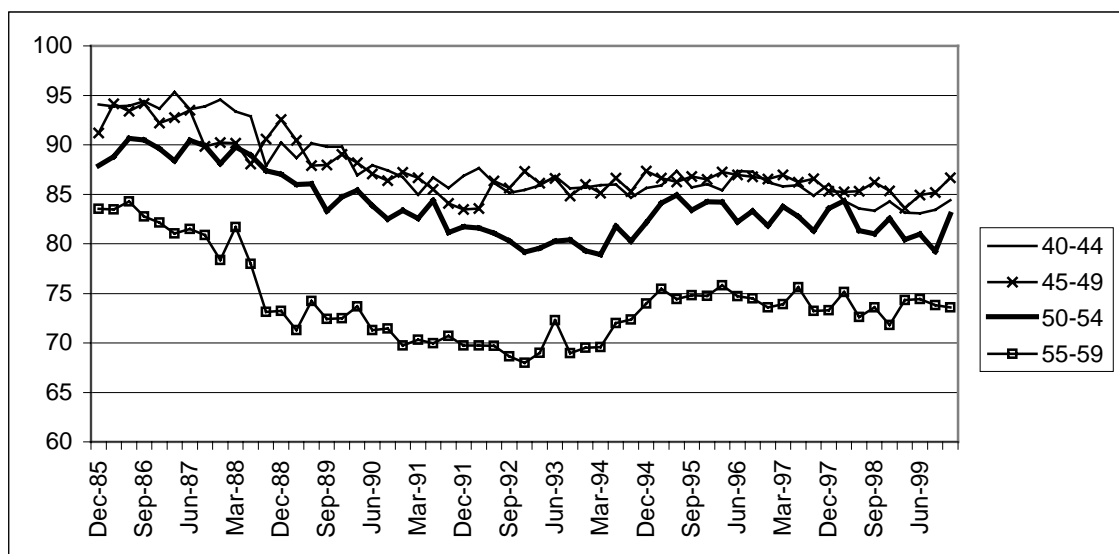
Figure 1: Employment rates for working aged women and men, 1956 to 1998



Source: Derived from Chapple (1994, 1999)

Figure 2 shows the changing full-time employment rates for men aged 40-59. It again shows the dramatic decline in employment during the period of economic restructuring. It also shows that in the subsequent period of overall employment growth, full-time employment rates for these men increased very little.

Figure 2: Percentage of men in each age group working full-time (20+ hours), 1985 - 1999



Source: Callister and Rose (2000)

Changes in work for both men and women, as well as changes in family type, show up in Table 1. It shows the rapid decline in “traditional” childrearing families but growth in all other family arrangements. However, the strongest growth was amongst non-employed sole mother families, couples where both partners were employed and, alternatively, couples where neither partner was employed.

Table 1: All families with a child under five - % of families in each group, 1986-1996

	1986	1991	1996	Change 86-96
Male in paid work, female not in paid work	49.2	35.6	28.5	-20.7
Female in paid work, male not in paid work	0.8	2.1	2.4	1.6
Both partners in paid work	30.2	28.4	35.8	5.6
Neither partner in paid work	3.2	9.8	7.6	4.4
Sole parent - Mother in paid work*	2.1	2.8	5.3	3.2
Sole parent - Mother not in paid work	13.3	18.8	18.4	5.1
Sole parent - Father in paid work	0.6	1.0	0.9	0.3
Sole parent - Father not in paid work	0.6	1.5	1.1	0.5
Total	100.0	100.0	100.0	
% of families without a parent in paid work	17.1	30.1	27.1	
n=	173,202	192,546	197,718	
% 2-parent families	83.4	75.9	74.3	-9.1

Source: Derived from the Census of Population and Dwellings, Statistics New Zealand.

Note: The use of the term sole parent family implies the child has only one active parent. In fact, it is likely to have two, and while it may mainly live with one parent, the non-custodial parent may be heavily involved in its life.

Table 1 also shows there was an overall growth in the proportion of sole mother families in this period. But where do the fathers of these children live? Table 2 uses only 1996 data to provide an overview of the differences between men and women in living arrangements when they were not living in couple households. What clearly stands out is that a significant number of women lived in sole parent households, whereas for men living alone was the largest category. Living as an adult child is also more important for men than women. Also of significance is the difference in numbers of men and women living in non-private dwellings. Some of the men living alone, at home with their own parent/s, in a non-family household or living in a non-private dwelling (which includes boarding houses and prison) are the fathers of children in sole parent families. Some of these are the “Marginal men” described in overseas research. For example, in 1998 the *Sydney Morning Herald* (1998) used research it had commissioned to show that there was of group of men in large Australian cities who had either permanently exited paid work or worked in low-paid, insecure part-time jobs. The article suggested that many of these men were part of a growing underclass of males who were “excluded from

family life, from settled relationships and marriage” and “whose lack of economic resources is sentencing them to life as outsiders.”¹

Table 2: Number of men and women aged 25-59 in each non-couple living arrangement, 1996

		Female	Male
Private dwelling	Sole Parent with Dependent children	87,978	17,175
	Adult Child in Family	22,803	44,229
	Other Family Relationship	10,653	10,527
	Living with Family or Families, not Related	23,877	23,667
	Living Alone	48,330	62,946
	Living in a Non-Family Household	35,262	51,681
	Unable to Categorise	18,492	21,363
Non-private dwelling	Living in Non Private Dwelling	8,277	15,645
		255,672	247,233

Source: Derived from the Census of Population and Dwellings, Statistics New Zealand.

These New Zealand graphs and tables illustrate that the lives of many men, including fathers, have changed dramatically since the mid 1980s. Yet, little is known as to how these new work (or non-work) and living arrangements affect the well being of men and their children.

RESEARCHING WOMEN

There has been much theorising within New Zealand and international feminism about “who should research whom” with regard to women. Much feminist writing rejects an ideal of ‘objective’ knowledge.

Feminist writers have been particularly concerned about how women have been portrayed in history. In relation to women in New Zealand history, Glamuzina (1992:41) argues:

Obviously, a writer’s gender, class and race shape their world views. But there has been insufficient acknowledgment within mainstream history writing in Aotearoa of the political role of the historian as a producer of knowledge. Instead, claims continue to be made that historians provide the ‘objective’ view. Meanwhile, feminist and other writers have convincingly demolished the validity of the objective writer.

Glamuzina further notes that the construction of history necessitates the recognition that “all sources are filtered by the historian, who assigns meanings and decides what is important” (p. 42).

¹ This newspaper article drew heavily on the research of Birrell and Rapson (1998).

In specific relation to Maori women's histories, Maori feminist researcher Kathie Irwin (1992) also has a strong view about who should research whom. She argues:

Work for Maori women must be promoted and undertaken by Maori women. People have spoken on our behalf for long enough (p. 7).

While these debates continue, there is currently general acceptance in New Zealand, particularly within government agencies, that women need to both take a key role in researching the lives of women and be involved in extensive advocacy on their behalf (institutional examples include the Ministry of Women's Affairs and the National Advisory Council on the Employment of Women).

RESEARCHING FAMILIES

Just as when researchers study individuals they bring with them their own personal histories they also do this when they research families. For example, in an article in the *Journal of Marriage and the Family*, Allen (2000: 14) notes:

Our assumptions, values, feelings, and histories shape the scholarship we propose, the findings we generate, and the conclusions we draw. Our insights about family processes and structures are affected by our membership in particular families, by the lives of those we study, and by what we care about knowing and explaining.

For instance, studies of shared parenting will be influenced by the author's own experiences of parenting both as a child and as potentially a parent themselves. Allen goes on to note the views of Nespor and Barber (1995: 51) that the way we study families should be changed:

...so groups previously marginalized and represented by others become representors of their own experience. This implies a simultaneous redefinition of both authorship and audience.

While there is much research on men as providers there is still very little research on them as nurturers. The little research that has been carried out on men in childcare roles suggests that such men can often feel marginalised in particular settings. Examples include the lack of gender-neutral baby changing rooms or that support groups are primarily aimed at mothers (Callister 1994), and limited scope for the involvement of men in maternity services (Breiding-Buss 2000).

RESEARCHING FATHERS

In New Zealand, and specifically in relation to the study of "fatherless sons", Chrisp (1999) argues the need to allow the voices of those studied to be a key part of research. In her study she uses extensive quotes as she believes that "the respondents speak best for themselves" (p. 90). She also states that she did not investigate the views of fathers in her research because

“[t]hey, themselves, I believe, can more appropriately undertake their own research into these issues” (p. 89).

This approach is in stark contrast to that taken in a project on fathers carried out by the Office of the Commissioner for Children. In 1995, the then Commissioner for Children, Laurie O’Reilly, with support from Save the Children Fund, initiated a research / advocacy project called *Fathers Who Care: Partners in Parenting* (FWC). The initiation of this project was in part influenced by the research on “fatherlessness” emerging from the United States but the project also emerged from a desire to develop ways of upholding the U.N. Convention on the Rights of the Child.

Four research reports were produced, as well as resource kits. The first study reported findings from a series of focus groups, the second a study of parenting programmes for fathers, the third the results of a national telephone survey and the final report covered children’s views about fathers. It was clear from the beginning this project was not purely an academic exercise to provide a new body of knowledge but more of one designed to help change the behaviour of a number of key stakeholders, in particular fathers.

I have more fully critiqued this project elsewhere (Callister 1999b). However, I will briefly revisit this criticism. First, and foremost, I was concerned that there was no partnership in terms of gender in the research team. Despite there being a large team involved in the research, men, and especially fathers, played virtually no official role in planning the research, reviewing the literature, undertaking the data collection, interpreting the results and peer reviewing the findings. This is despite concerns being expressed about a lack of gender balance in the research team by outside parties, including myself, early on in the research process. The acknowledgment section of the fourth and final report illustrates this lack of gender balance.

The researcher gratefully acknowledges the advice and support received from the Project Leader, Trish Grant, who has overall responsibility for the Fathers Who Care: Partners in Parenting project. Rae Julian has also provided valuable advice and encouragement. The assistance of John Brickell and Cynthia Tarrant as recorders for the focus group discussions was appreciated. Raewyn Good, Ngaire Bennie, and other members of the Ethics Committee of the Association of Social Science Researchers, contributed to the development of the research proposal. Dr Anne Smith (Children’s Issues Centre, University of Otago) shared references and research reports. Dr Jenny Neale (School of Applied Social Sciences, Victoria University of Wellington) offered advice about the structure of the final report. Support with the project was also gratefully received from Janet Upton, Necia Hira, Sefulu Sione and Pauline Coupland, at the Office of the Commissioner for Children. Dr Gabrielle Maxwell (Institute of Criminology, Victoria University of Wellington) is the main consultant to the overall project, and helped shape this research (Kerslake Hendricks 1999: iv).

Overall, the title of the FWC project suggests that a partnership in parenting was being sought. The fact the project focussed on fathers rather than parents also suggested that gender was considered to be of some importance. Therefore, it could have been reasonably expected that the researchers demonstrate this partnership in the research process rather than making one partner the subject of research of the other.

Second, and connected with this first problem, there were instances of what I saw as bias in the research reporting. Various examples are set out in my original criticism. In this paper, I briefly present a further example. It illustrates men's voices and realities being marginalised by a researcher.

In the Summary and Conclusions part of 'The Barriers: Perception or Reality?' of the Julian report (1999:34), the author notes with regard to legal issues:

The Family Court is seen as discriminatory by many people. However, the best interests of the child are the paramount consideration in court decisions. The view that the court is discriminatory could, therefore, be a misperception given the practical reality of the current parenting roles that often provide the basis for decisions on custody and access.

In this statement, Julian, the former head of the Human Rights Commission, is suggesting that the issue of discrimination 'could' be a misperception. In saying the discrimination 'could' be a misperception the author is using her 'expert' power to suggest that the reported discrimination "is" a misperception. Yet, in the main part of the report there is evidence from a random telephone survey of men and women that almost half the men and a third of the women surveyed thought that the Family Court discriminated against men. Julian's reportage marginalises the many 'voices' in the study that either think the Family Court is biased or have experienced bias. I believe that such reporting would have been challenged in a gender-balanced research team. The Family Court is an important institution that affects the well being of many men, women and their children so research that suggests it is biased should be taken very seriously.

WHAT ABOUT POWER RELATIONS?

Most of the researchers involved in the New Zealand FWC project were very familiar the need to research to be inclusive when researching women but, for some reason, abandoned these ideals when it came to researching fathers. While this could simply be seen as "gatekeeping", maybe due to "unequal power relations" gender balance in a research team is of no importance when researching the lives of men?

There are various dimensions to power relations. One aspect is that there is an imbalance of power between the researcher and those researched. When measured by variables such as income and occupation, women, on average, have less power than do men, on average. However, other factors can also affect this hierarchy such as sexual preferences and

disabilities. Within feminist literature, there is on-going debate about whether oppression gives a better vantage point in terms of understanding the world. Feminist standpoint epistemology suggests that women, who are seen as generally oppressed, are able to provide a “truer” picture of family life than men. This view is contested by other feminist writers, some of who argue that researchers need to be able to learn from each other across various conditions of oppression (see Hyman 1999 for a review of these debates). Unequal power gives both the powerful and the powerless different insights and in order to change the behaviour of a powerful group it seems logical to try and tap into both these insights at all stages of the research.

However, changes in education and the labour market have led to some significant blurring of traditional hierarchies of oppression. In our society there are now women in some key decision making positions and some men who have little power and status. This adds further complexity to these debates. As a result, it is, for example, no longer simply a case of assuming that a low-skilled Pakeha father will be higher on the scale of oppression than, say, a well-qualified female Maori researcher.

Interestingly enough, unequal power relations emerged when I wrote my original criticism of the project. I submitted a paper to the *Social Policy Journal of New Zealand*. In doing so I assumed that the Commission for Children would have a right of reply to my article. However, instead of trying to debate the ideas, there was intense lobbying by the Commission for Children to have the paper rejected.² This surprised me, as I firmly believe that open debate is an important aspect of any research process. In this process, the Commission for Children tried to further suppress the “voice” of fathers. However, given the power of the internet, suppressing debate is getting a little more difficult.³

OTHER MODELS OF RESEARCH ON FATHERS

I now turn briefly to other research on fatherhood undertaken in New Zealand and Sweden with the primary objective of changing parenting behaviour.⁴ Not only did the *Fathers Who Care: Partners in Parenting* research stand out in contrast with research on women and Maori, it also stood out relative to other research projects on fathers.

In this collection of papers, the project undertaken by Mitchell, Chapman and McIntosh (2000) provides an example of inclusive New Zealand research on fathers. Not only was there a gender balance in the research team, but also one of the researchers had been heavily involved in developing and supporting men’s networks locally and nationally. As stated in their paper, this gave that team member a real ability to “get alongside” fathers. In addition, another

² This is in contrast to the Commission for Children’s stance when pressure was placed on it by politicians to remove data on Maori family violence from a report on child abuse. In response to this pressure, the Commissioner, Roger McClay, argued strongly for his freedom to publish research on contentious issues (*Dominion*, 2000).

³ As I thought it was an important debate I posted the paper on the internet.

⁴ Other examples are contained in my original paper.

researcher brought experience in research in the area of men's health, especially research that promotes collaboration with and a degree of ownership for the participants.

In Sweden, there has been a long interest in promoting shared parenting and a number of initiatives have been launched to help try and achieve this goal. For example, the Government appointed a *Working Party on the Role of Men* in 1983. This working party, a mixed team of men and women, organised seminars, publications and projects (Ministry of Health and Social Affairs 1994). In addition, the working party initiated a research program on masculinity and promoted books and film productions on men's issues. In 1992, this was replaced by another working group, called *Fathers, Children and Working Life*. This had the task of analysing men's use of parental benefits and the possible labour market barriers preventing men from taking parental leave. As well, in 1989, the Swedish government started a campaign called *Daddy Come Home*. The Ministry of Health and Social Affairs provided funding for conferences, seminars, and other information campaigns to encourage fathers to undertake a larger share of unpaid childcare (Ministry of Health and Social Affairs 1994).

Moreover, in the last few years, projects have been developed to educate young men about childbirth and childcare. Within the existing parenthood training programs, meetings are arranged for fathers-to-be and new fathers. As well as learning about the process of childbirth and early parenting, they are also informed of their rights to parental leave and the way in which their role will change in the family. Men are the group leaders in these fatherhood meetings, a factor that is seen to be important.

The Ministry of Health and Social Affairs (1995) also produced a book called *Men on Men: Eight Swedish Men's Personal Views on Equality, Masculinity and Parenthood*. This book was part of the material Sweden produced for the Fourth World Conference on Women in Beijing. Many of these writers were, in fact, quite critical about aspects of men's lives, while also identifying various barriers to men's greater involvement in childcare. Many of the barriers are the same as those identified in New Zealand (Birks and Callister 1999a&b) These include the Swedish equivalent to the family court as well as the attitudes of both mothers and fathers. However, of particular relevance in this collection is an article by Lars Gustafsson (1995) who, at the time, was Vice Chairman of the Swedish Save the Children Fund. As already noted, in the New Zealand context Save the Children Fund was a key sponsor of the FWC project. Gustafsson discusses ways to build bridges between men and women, which he sees as essential in supporting positive parenting by men. He was particularly concerned about male violence in families and wanted to find ways of reducing this. However, to do this he argues that men need their own voice, their own research and their own analysis. He notes that "research on men is just as important as research on women, and it should, primarily, be undertaken by men" (p. 64).

CONCLUSION

In this paper I have presented just one example of a major New Zealand research project on fathers where the voices of fathers were marginalised. It is not hard to find other New Zealand research projects on the lives of men, such as a recent HRC grant to study the social effect of viagra, where men are a subject of the research but appear to play no part in the research process.

There has been much debate about the methodologies used when researching the lives of women. As a result of such debate it would, for example, be highly unlikely that any publicly funded research in New Zealand on motherhood or female sexuality would involve a male only research team. In New Zealand, it is important we engage in debates about the methodologies used for researching men. This will include establishing the situations where it is most appropriate to use a male-only team, the situations where a mixed team will provide the best results, those where a women-only team might provide some useful insights and those where the gender composition of the team is irrelevant. However, in general in research on men, and in particular on issues such as shared parenting and with regard to various male specific health problems, I suggest that an “inclusive” approach to research is the most appropriate. The argument for inclusive research is especially strong when behavioural change amongst the group being researched is an anticipated and hoped for outcome of the research process. In contemporary research, target populations should generally be part of the research process not just the subjects of the research.

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Chapter Five

THE SHARED PARENTING BILL

by Stuart Birks

INTRODUCTION

The Shared Parenting Bill was a private member's bill by Muriel Newman, ACT MP. It is a good example to study because it is relatively self-contained, being first presented on 17th February 2000 and defeated at its first reading on 10th May. It addressed the issue of care for children when parents are living apart from each other. The bill aimed to introduce a rebuttable presumption of 50-50 shared custody, in place of the prevailing approach, which emphasizes sole custody.

The Parliamentary debate on the bill, being the first reading, was less a debate on the content of the bill than a debate on whether to even consider the content of the bill by allowing it to progress to the select committee stage. It might be thought appropriate that reasons not to proceed should therefore be well-founded. In this instance the reasons presented were dubious.¹

The text of the bill is included in Appendix I of this chapter. There was one ministerial briefing paper that received any publicity, see Appendix II for extracts. Papers were also prepared by the Ministry of Social Policy and the Labour Research Office, but they offered little extra of substance. The Ministry of Women's Affairs paper was presented as a memorandum, but was referred to as a briefing paper in a government press release by Laila Harré, Minister of Women's Affairs, dated March 21 (see Appendix III).

As the purpose of this chapter is to consider the quality of policy advice, I shall focus on the government stance, considering the briefing paper and government press releases rather than on the bill itself.

As an initial remark, it is notable that the briefing paper was produced by the Ministry of Women's Affairs (MWA), although Laila Harré is also Minister of Youth Affairs. There has been no mention of papers from the Ministries of Youth Affairs, Justice or Courts, or the

¹ Note that in this paper I am addressing solely the quality of reasoning in the government position, not the merits of the bill itself. The factual content of the government speeches in the debate reflected the advice given to government and discussed here. Those speeches are therefore not included. They are available at: http://rangi.knowledge-basket.co.nz/hansard/han/text/2000/05/10_chron.html

Human Rights Commission, or the Law Commission, or the Office of the Commissioner for Children. The Ministry of Youth Affairs youth policy consultation, reported in the *Briefing to the Incoming Minister*, identified the impact of parental separation as one of the key issues for youth.²

The MWA paper is open about its purpose, namely to "provide advice on the implications of the Shared Parenting Bill for outcomes for women". The footer on each page of the paper is, "*Making a Difference for Women in Aotearoa New Zealand*". The Ministry describes its role on its web page: "*The Ministry provides gender-specific policy advice to the Government to improve women's lives and achieve recognition of women's contribution in society*".³ The briefing paper claims to "scope other policy approaches", but there is little sign of this.

There are omissions in the consideration of implications. For the memorandum to give a balanced assessment it would have to include:

- a. Consideration of the scale of the problem in terms of the number of families affected and the implications for the structure of society and associated social problems;
- b. A broader view of rights than just article 3 of UNCROC;
- c. Mention of "the shadow of the law" and more of the various published criticisms of the current operation of the Family Court;
- d. Broader and more searching coverage of the literature.

To address these in turn:

i. The scale of the problem

The Inland Revenue Department (IRD) estimates that, at 31 August 1999, child support registrations involved approximately 300,000 children.⁴ Statistics New Zealand data on the under 19 population at that time give a total of less than 1,200,000. In other words, from these figures over a quarter of New Zealand children are living apart from one of their natural parents. The IRD also expect the number of paying and custodial parents on its child support customer base (and hence the number of children affected) to grow over the next eleven years.⁵

An assessment of policies that impact on such a large section of the population really needs to give some consideration to the broader implications in terms of the nature of society and families. A change in rules will change behaviour. The implications could be significant and it

² Ministry of Youth Affairs, *Briefing to the Incoming Minister, November 1999*, appendix B, at: <http://www.youthaffairs.govt.nz/pdf/BIM2000.pdf>

³ <http://www.mwa.govt.nz/new.html>

⁴ IRD, *Child Support Stats Talk*, 31 August 1999

⁵ "In five years time, our customer base could be more than 545,000, and could continue to grow until 2011." From: <http://www.ird.govt.nz/childsupport/csa.htm#facts> Figures were not given for the current customer base, but at 30 April 2000 there were 195,000 paying parents and 192,000 custodians, giving a maximum customer base of 387,000.

should be a major concern that policy advice to government fails to acknowledge this.⁶ Not only is it a concern, but we should also be surprised at its omission given that behavioural factors are considered significant for much public policy (public health messages, user charges and cost containment in health, deterring crime, benefits and willingness to work, to name only a few). It might be considered reasonable to expect at least rudimentary "social impact reports" to be made, given the culture we have of environmental impact reports and gender analysis of policies, for example. Instead, the focus was solely on how individual cases would be handled.

ii. Rights

The briefing paper is extremely selective, mentioning only Article 3 of the United Nations Convention on the Rights of the Child (UNCROC), saying that, "the interests of the child should be the primary consideration in policy and administrative practices". Other Articles are also relevant. Hence, to take some clear examples:

- **Article 5** says that: *"States Parties shall respect the responsibilities, rights and duties of parents ... to provide ... appropriate direction and guidance"*.
- In **Article 7** we see that: *"The child shall ... have ..., as far as possible, the right to know and be cared for by his or her parents"*.
- **Article 9.1** states that: *"States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child."* This could possibly be interpreted to mean that interim sole-custody arrangements are questionable, and that alternatives to shared custody should only be considered when they can be shown to be superior according to a "best interest of the child" criterion. If this latter is a valid interpretation, then clause 5 of the Shared Parenting Bill was merely writing this into legislation.⁷
- **Article 9.3** is also relevant: *"States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests."* In other words, the state should only fail to support the maintenance of a child's personal relations and direct contact with a parent on a regular basis if it is demonstrably contrary to a child's best interest.⁸
- **Article 14.2** says: *"States parties shall respect the rights and duties of parents and, if applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child."* The MWA paper states clearly that this does not occur at present, stating on page one that: *"in practice the rights of guardianship are exercised by the parent who is the primary caregiver"*.

⁶ The Relationship Property Bill, currently being rushed through under Supplementary Order Paper 25 is another example of consideration of law changes apparently without any formal assessment within government of the impact on behaviour and the resulting social changes.

⁷ The Bill contains no mention of interim custody arrangements.

⁸ New Zealand legislation gives no guidance to the judiciary on interpretation of the term "best interest". There is no legislative requirement for the judges to give reasons why a particular decision is claimed to be "in the best interest of the child".

- **Article 18.1** makes the State's obligation to support both parents explicit: *"States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern."* It also identifies parental responsibilities as being focused on the best interest of the child. This is important in understanding the meaning of parental rights, which are a requirement to enable parents to meet their responsibilities.
- **Article 18.2** requires the State to develop appropriate institutions, which would include the Family Court: *"For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of the child."*
- **Article 19.1**, referring to mental violence, could be considered to apply to emotional abuse in the form of parental alienation⁹: *"States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child."* The bill expressly mentions parental alienation in clause 8(b). Article 19.2 mentions provision for intervention in such cases, which may have been partially addressed in clause 8 of the bill.

There are other internationally specified rights which merit consideration. Some of these are listed in a 1998 document from the Human Rights Commission¹⁰:

"Article 16(1) of the Universal Declaration of Human Rights provides that men and women of full age have the right to marry and found a family; and relevantly they are entitled to equal rights as to marriage, during marriage and at its dissolution. Article 16(3) provides that the family is the natural and fundamental unit of society and is entitled to protection by society and the state."

"International Covenant on Civil and Political Rights ... Article 17 provides that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence."

"Convention on the Elimination of Discrimination Against Women [CEDAW] ... Article 16 provides that States Parties shall take all appropriate measures to

⁹ See Blaikie (1994)

¹⁰ Human Rights Commission (1998). It is notable that the Human Rights Commission quoted these sections, which refer to rights to a family, while advocating unequal splitting of matrimonial property based on the prevailing predominant granting of sole-custody to the mothers. It is to be wondered how seriously the identified men's and children's rights were considered, including those contained in UNCROC and identified above. There was no mention in the media of a Human Rights Commission opinion on the Shared Parenting Bill.

eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: Article 16(f) ensures the same rights and responsibilities during marriage and at its dissolution."

Article 5 of CEDAW is also relevant:

States Parties shall take all appropriate measures:

*To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of **the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;***

*To ensure that family education includes a proper understanding of maternity as a social function and the recognition of **the common responsibility of men and women in the upbringing and development of their children**, it being understood that the interest of the children is the primordial consideration in all cases.*

(my emphasis)

A discussion of parental rights in the United States in Hubin (1999) makes a crucial point. Echoing UNCROC Article 18.1:

*"... parental rights are fiduciary rights. Parents have the legal right to make certain decisions concerning their minor children **in the best interests of the children** ... even when the parent is acting within the scope of his or her rights and in a situation in which these rights are not overridden, the parents' choices are to be guided by consideration of the best interests of the children."*

Later in the paper he says:

*"The phrase "award custody" constitutes a strange twisting of reality in the context of divorce, dissolution and most other conflicts over custody between natural and adoptive parents. Such parents typically appear before the court at the outset each with full parental rights. No one is **awarded** rights, one parent is **deprived** of rights ... the temporary "awarding" of custody is really the suspension (temporary deprivation) of rights ... The procedures for "awarding" custody **pendente lite** do not require evidence, or even an assertion, that the person whose parental rights are abridged has abused, or is likely to abuse, his or her parental rights."*

It is worth noting that the concept of "family" in these international documents is based on biological ties, whereas official statistics consider a family as a subset of households. The data therefore require people to be living under the same roof, hence "sole parent family", and custodial parents in new, live-in relationships are considered to be in "two parent families".

iii. "Shadow of the Law"

In section 3 of Birks (1999a), I discuss the impact of "fallback positions" on the court counselling process. A technical concept which encompasses such effects is "the shadow of the law". The concept is important not only because it indicates how legal decisions may influence outcomes by other processes, thus allowing a wider and less formal application of the law, but also because the existence of legal avenues may in fact **restrict** the range of possible outcomes. For the latter effect, consider when the court makes rulings on custody and access. Where there is a belief that conflict between parents is incompatible with significant parenting involvement by both parents, courts will tend to favour sole custody with limited or no contact by the other parent. In other words, the adversarial nature of legal processes can bias legal decisions away from shared custody. Mediated settlements could result in a more co-operative outcome, except that parties to mediation are acting "in the shadow of" a law which favours a winner-take-all outcome. The one most likely to win a legal case has limited incentive to compromise in mediation, and the one most likely to lose is under great pressure to make concessions.¹¹

The effect of the shadow of the law was ignored in a news release of 26 April 2000 on the Shared Parenting Bill by the Family Law Section of the New Zealand Law Society:

*"...the Bill seems to ignore the fact that the vast majority of parents seem to be able to find sensible and pragmatic solutions to the problems posed by family separation without resort either to lawyers or the courts. The Section is concerned that substantive law changes are being promoted as a response to a relatively small number of difficult cases."*¹²

The effect of the shadow of the law can be demonstrated by the following simple exercise. Divide people into groups of three, with one being "yellow", one "blue" and one "red". Give each group 10 counters, to be held initially by "yellow". Tell them that these are of value, and that, with the assistance of "yellow" as mediator, "blue" and "red" are to come to some agreement as to how the two of them will share the ten counters. Give them a few minutes to decide, then note down the results from each group. You will find that they will generally split the counters 5 each, or something close to that.

Repeat the experiment with the same people, but this time tell them that, if they don't reach agreement within a specified time (say 5 minutes), you will decide for them, giving eight counters to "blue" and two to "red". Note down the results again. Overall they will be different from those in the first experiment, even if you are not called on to make the allocation.

iv. Literature Coverage

Few documents were cited. Some contradicted the report. For example the paper claims that "only 5% of custody applications to the Family Court result in contested hearings". Not only is

¹¹ For more discussion on the shadow of the law and its relevance in this situation, see: <http://www.massey.ac.nz/~KBirks/gender/econ/shadow.htm>

¹² <http://www.nz-lawsoc.org.nz/fls/news/sharedp.htm>

this of doubtful significance given the shadow of the law described above, but the figure may be incorrect. The paper cites undated notes, and quotes paragraph 926 of Morris (1999). Morris, in a footnote to the paragraph, states that, "there is a lack of comprehensive data on this matter", and reports on a study which found that, "defended hearings were held in 12 percent of Guardianship cases and in 8 percent of the CYPF Act cases". Morris is reporting on the Women's Access to Justice project, which has been criticised for its methodology and the quality of its information (see Birks, 1998a, 1998b). Whatever the figure, the above-mentioned phenomenon of the shadow of the law would indicate that judicial decisions have a far wider significance and should not be so readily dismissed. The 5% figure could be interpreted to suggest that most cases are satisfactorily resolved without requiring a hearing. This is the suggestion in the briefing paper. An alternative interpretation could be that relationships between children and their parents are being limited or severed without even a hearing of the evidence. The briefing paper is weak on identifying the context for and underlying assumptions of its analysis.

In other cases, contradictory information is omitted. For example, reference is made to Section 20A of the Guardianship Act, which provides penalties for obstruction of access. In Butterworths (1995, p.506) Judge Boshier is reported as doubting whether there was power to punish the deliberate obstruction of enforcement of an access order.

Although the problem of alienation has been mentioned in the New Zealand literature (Blaikie, 1994, Birks, 1998c) and is raised in the bill, this matter is not addressed in the briefing paper.

There is some mention of overseas legislation, mainly indicating that the writer was unable to find similar legislation elsewhere. I made a short internet search and found that a presumption of shared physical custody can be found in the state legislation for Idaho and New Mexico. Another piece about a California judge shows that many provisions in the bill were already written into law in California.¹³

CONTRADICTIONS

There are also contradictions in the paper. Perhaps the most glaring is the claim on page 4 that "current law ... confers generally irrevocable guardianship rights at the birth of the child". This contrasts with the statement on page 1 that, "the rights of guardianship are exercised by the parent who is the primary caregiver". In any event the former claim is incorrect if the father is neither married to nor living with the mother at the time of birth.

The use of the term "primary caregiver" is itself problematic given past New Zealand literature on the subject. It involves a narrow view of parenting and of children's needs. This is discussed, with reference to relevant literature, in Birks (1999a). The result is to understate the importance of parents, the nature of their contribution, and the circumstances required for them to adequately fulfill their parental responsibilities.

¹³ <http://www.lectlaw.com/files/fam04.htm>

It should be noted that the Ministry's briefing paper to the incoming Minister¹⁴ included the assertion that, "Economic independence is the most important issue for women because it is the necessary condition for social and economic well-being". This places a low value on families. It might indicate why the Ministry sees no problem with a situation as stated in the memorandum where the rights of guardianship are exercised not by both parents, but by the primary caregiver. We could question whether that is in the best interests of the children, however.

The paper criticized the bill on the grounds that it would, "restrict the overriding discretion of the Court" (p.4). It does this despite also referring to Morris (1999), a report based on the unquestioned starting assumption that women receive unfair treatment under the law. One report is trying to shape legal behaviour, the other is suggesting that there should be no interference. The reasoning is inconsistent, and suggestive of a piecemeal approach, simply using whatever arguments support the preferred position of the time.

Steve Maharey, Minister for Social Welfare, also objected to restrictions on judges in a Government press release on the bill dated 22 March 2000 (see Appendix IV). He asserts that: *In attempting to legislate preferred or favoured custody arrangements the bill places the rights of parents above those of children and as such it is inconsistent with other family law statutes.*

He is incorrect on three counts. First, clause 5 of the bill specified best interests of the child as the deciding criterion for custody. Second, if Hubin's point above applies in New Zealand, then the rights of parents involve an associated responsibility to act in the best interests of children.¹⁵ Third, it is not clear that the Child Support Act, the Domestic Violence Act, or the Matrimonial Property Act have as their prime objectives the best interests of the child, the welfare of the child, or the rights of the child.

It is to be wondered what stance would be observed in a briefing paper from the Ministry of Justice, given that Minister's attempts to influence sentencing patterns. In a Newsroom report of, 23 March 2000, reporter Peter Fowler states, *"The Justice Minister, Phil Goff, is looking at passing a new law next year, which will set down guidelines for judges to follow when imposing sentences and non-parole periods."*

The MWA objection to restrictions on judges calls into question the amount of discretion appropriate for the Court given lawyers' lack of specialist training in issues of child development, family structure and so on. Chief Justice Sian Elias pointed out recently that, *"We have all of us had experience of agencies who, with the best possible motives, have*

¹⁴ Ministry of Women's Affairs (1999)

¹⁵ The terms "rights of the child" and "best interests of the child" may refer to different things and may sometimes be in conflict. It is not clear what the Minister means here, when section 23 of the Guardianship Act states that the "welfare of the child" is paramount. Are there three different concepts being used?

genuinely pursued their vision of the appropriate ends of the legislation but have in doing so failed to hear the other point of view".¹⁶

The reasoning therefore appears to be inconsistent. The issue is a telling one, however. There has never been a public debate on what is meant by the best interests of the child or the welfare of the child. This has been left to the Family Court to determine on its own and without scrutiny. As Judge Boshier has said, "... *the Family Court ... unfortunately labours under the perception that it operates in secret*".¹⁷

While this secrecy can limit discussion of individual cases, it should not preclude public debate on broader principles. In fact such debate has been called for.¹⁸ Nevertheless offers to participate in debate have been declined or ignored.¹⁹

The Minister of Social Welfare states in his press release (see Appendix IV) that, "*the Government does not consider that the one size fits all solution promoted by Mrs Newman through this bill is appropriate*". It is hard to see how the bill can be interpreted in this way, given the options presented in clause 5.

The government stance on the bill had the effect of preventing debate. The press release in Appendix IV indicates that there may be debate in future, but the standard of reasoning used in this case does not suggest that the future debate will be solidly based.

CONCLUSION

To summarise, the debate on the bill was not one on the bill itself, but whether to allow the bill to proceed past the first reading. In other words, the debate was on the question whether to even debate the bill. There was remarkable misinformation and lack of information about the bill. Ministry research input into the political process was restricted primarily to one briefing paper. That was expressly to consider the impact on women, despite the claims by several participants that the overriding concern was the best interests of children. Government press releases also misrepresented the bill. It is not clear whether the misinformation influenced the politicians, or the politicians actively promoted the misinformation. In any event, it is clear that, as the State Services project recognizes, there are problems with the quality of policy advice.²⁰

¹⁶ Elias (1999)

¹⁷ Boshier (1999), p.51

¹⁸ For example, Elias (1999): "The challenge for Judges is to do a better job of explaining their work to the public", Julian (1999): "...more information and debate about current practice is necessary", Long (1991), "Principal Family Court Judge Patrick Mahony says he would like the Court's work to be put more before the public, so people can see the different decisions made".

¹⁹ For example, personal correspondence with Principle Family Court Judge Patrick Mahony, President of the Law Commission David Baragwanath, retired Judge Peter Trapski, and published letter Birks (1999b).

²⁰ See Birks and Buurman (2000).

There also appear to be inconsistencies in the government approach to the judiciary. In the case of the bill, it is considered inappropriate to constrain judges, whereas in other areas guidance is sought.

Perhaps of even greater concern is that the rights identified in this paper suggest that current practice in the Family Court may be contrary to the terms of various international conventions. Is it appropriate to simply ignore this, when arguments based on rights were used to justify the government stance on the bill?

Most surprising, however, is the lack of any consideration of the social impact of current legislation or the changes proposed in the bill. This omission, being notable also with the Relationships Property Bill, may be a common characteristic of lawmaking in New Zealand. As a result, both lawmaking and implementation may well be very poorly informed.

APPENDIX I

SHARED PARENTING BILL

Member's Bill

Explanatory note

This purpose of this Bill is to significantly improve the welfare of children whose parents separate or divorce.

Children inevitably suffer when their parents elect to live apart. The continued absence of one parent is a major source of anguish in a child's life which can be exacerbated by the competition between parents caused by custody and access inequalities.

Currently, the most frequent outcome for families when parents separate, is physical sole custody, whereby the children spend the majority of their time with one parent. The parent who gets sole physical custody effectively gains control of the children and hence commands a strong position in negotiations with the non-custodial parent for their relationship with the children..

Shared Parenting, as described in this Bill, has been highly successful in other western countries over the past two decades. It has been shown to improve the welfare of children, reduce arguing between parents, and improve cohesion of the two parent family unit.

Under Shared Parenting, the starting point is that both parents are equally important to the children and it is in the best interests of the children to spend equal physical time with each parent. Parents will be considered "joint custodians", and neither parent will be given a superior role to the other parent unless it is proven necessary.

The parents (or a judge, if one is involved) will be able to mutually agree to vary custody arrangements from the 50:50 split of time. Such changes should be the mutual decision of the parents, taking account of the needs of the children.

Unequal sole custody and other custody arrangements will continue to be options, but they will be ranked as lower alternatives. Alternatives will be considered if for example, one parent fails to cooperate with the other, if one parent tries to alienate the children against the other parent, or if one parent is deemed by a court to be unsuitable.

Government departments, and non-government agencies receiving government funding, will be required to actively promote Shared Parenting. Annual reports will be subject to parliamentary scrutiny to ensure proper compliance.

The use of false allegations by one party against another to win custody will not be tolerated. Any false allegations that are made knowingly will draw fines, court costs and possible downgrading of custody rights.

Government benefits will continue to be available to separating parents, but WINZ will be required to explore all viable options, such as placing both parents in the work force. WINZ will be required to consult both parents before a benefit is granted.

Government will be required to publish information describing the uptake and impact of the various custody arrangements.

New Zealand has a long tradition of gender equality, including equal voting rights, equal splitting of matrimonial property, and equality in education and the work force. Shared Parenting within the family unit is the only realistic long-term public policy option for New Zealand to adopt.

Dr Muriel Newman

SHARED PARENTING BILL

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The Parliament of New Zealand enacts as follows:

1. Title – This Act is the Shared Parenting Act **2000**.

2. Commencement – This Act comes into force on the day after the date on which it receives Royal assent.

3. Purpose – The purpose of this Act is to improve the welfare of children whose parents have separated, by bringing greater equality to the role of parents within the family unit by –

- (a) ensuring that minor children have frequent and continuing contact with both parents after the parents have separated or dissolved their marriage:
- (b) encouraging parents to share the rights and responsibilities of child rearing to effect this policy:
- (c) assuring parents to the greatest extent practical, an equal role in the physical and legal custody of their children.

4. Interpretation – In this Act, unless the context otherwise requires,-

Shared parenting means joint custody split equally (50:50) between the parents (or other parties)

Joint custody means joint physical and joint legal custody to both parents (or other parties), in such a way as to guarantee the child frequent and ongoing contact with both parents (or other parties)

Legal custody means the decision-making rights, responsibilities, and authority relating to the health, education and welfare of a child

Parental alienation means having the effect of denigrating or degrading a parent (or party) involved in custody issues, to the relevant children in custody

Physical custody means a minor child residing with, or under the care and supervision of a parent (or other party)

Sole custody means one parent (or other party) having physical and legal custody of a minor child.

5. Priorities of custody – Custody must be awarded in the following order of preference, according to the best interests of the child:

- (a) Shared parenting by both parents:
- (b) Joint custody to both parents:
- (c) Sole custody to either parent:
- (d) Equal joint, joint or sole custody to other parties.

6. Parental co-operation – An award of joint custody obligates the parents (or other parties) to exchange information concerning the health, education, and welfare of the minor child, and unless allocated, apportioned, or decreed, the parents or parties must work co-operatively and confer with one another in the exercise of decision-making, responsibilities and authority.

7. Domestic violence –

- (1) In every proceeding where there is a determination by the court that domestic or family violence has occurred, there is a rebuttable presumption by the court that it is detrimental to the child and not in the best interest of the child to be placed in sole custody or joint physical custody with the perpetrator of domestic or family violence.
- (2) Despite the provisions in **subsection (1)**, the judge must also take into account what, if any, impact the domestic violence had on the child.

8. Penalties for non-co operation – Any person who frustrates or attempts to frustrate (directly or indirectly) the custody or access of a parent or party, by any means including-

- (a) preventing hand over of the children:
- (b) parental alienation:
- (c) knowingly making false allegations of sexual abuse:
- (d) knowingly making false allegations of domestic violence –
is liable to -
- (e) a fine not exceeding \$1000:
- (f) the costs incurred by the aggrieved parent or party because of the non-co operation:
- (g) in the case of a custodial parent or party, downgrading of joint custody rights to non-custodial status, or the removal of custody rights.

9. Parenting plan – If the court finds both parents are suitable parents it may, at its discretion, require the parents (or other parties) to submit an implementation plan for the custody order, or the parents acting individually or in concert may voluntarily submit a custody implementation plan.

10. Mutually agreed variations to shared parenting – Parents who have been granted shared parenting are free to mutually agree variations to the physical care arrangements as suits their personal and work situations.

11. Sole custody consideration –

- (1) In making an order for sole custody, the court must consider, among other factors, which parent is more likely to allow the child or children frequent and continuing contact with the non-custodial parent.
- (2) The burden of proof that shared parenting would not be in the best interests of the child is on the parent requesting sole custody.

12. Promotion of shared parenting –

- (1) Every department, Crown entity, and State enterprise within the meaning of:
 - (a) Schedule 1 of the State Sector Act 1988:
 - (b) Schedule 4 of the Public Finance Act 1989:
 - (c) Schedule 1 of the State Owned Enterprises Act 1986 –and any organisation or body entering into a contract with a department referred to in **paragraph a** for the provision of goods or services –

must actively promote shared parenting as the preferred option where the activities of that department, Crown entity, State enterprise or organisation reflects or influences parental custody arrangements

- (2) Every department, Crown entity, State enterprise or organisation to which **subsection (1)** applies, must include in its annual report, a statement of compliance with the provision of **subsection 1**

13. Court must state reasons shared parenting not awarded – If a court does not award shared parenting, then the reasons must be explicitly stated in the judgment.

14. Publication of information –

- (1) The Department of Courts must include in its annual report the following information:
 - (a) the outcomes of all custody court cases for the year:
 - (b) the different types of custody awarded:
 - (c) the reasons why shared parenting was not awarded:
 - (d) the number of custody cases in which accusations of sexual abuse or domestic violence were made:
 - (e) the gender of the parents or parties involved for each custody outcome:
 - (f) the number of cases in which accusations of sexual abuse or domestic violence were made, which also had custody implications which were not contested in court:
- (2) At each national census, the Department of Statistics must ensure information is collected and published on the accumulated number of different custody arrangements in the community (both court awarded and non-court awarded), and the level of total benefits being paid.

APPENDIX II

Extracts from the MWA briefing paper

MINISTRY OF WOMENS AFFAIRS MINITATANGE MO NGA WAHINE

...

21 March 2000

SHARED PARENTING BILL

Introduction

This memorandum provides advice on the implications of the Shared Parenting Bill for outcomes for women and scopes other policy approaches to address the underlying issues that the Bill seeks to address. This memorandum does not provide detailed legal advice on the workability of the Bill in its current form, although some general points are noted in the discussion.

The Current Law

At the heart of the current law lie three quite simple concepts:

- (a) If parents have been living together or married at the time a child is born, they are both legal guardians of the child. Guardianship is not altered by separation or divorce. Guardianship is the overall right and responsibility for the upbringing of a child and the law provides that this is a shared responsibility. Guardianship includes the right to custody of a child.
- (b) If the parents separate, the starting point is that they both have equal rights to custody of the child. Separation usually involves the parent living apart and this is where the term “custody” is often used – as describing the rights of the parent with whom the child spends most of their time. In fact, that person is the primary caregiver.
- (c) The parent who is not the primary caregiver retains the rights of guardianship and of access to their child (sometimes called visitation).

Guardianship rights are, in general terms, inalienable – that is, the rights survive parental separation and divorce. A parent therefore has the right to be involved in decisions regarding the children’s schooling, health, religion, and welfare regardless of the custody and access arrangements. However, in practice the rights of guardianship are exercised by the parent who is the primary care giver.¹

1 *Market Roxborough (1988) 4 NZELR 673*

The current law also provides for parties to agree to joint custody. New Zealand research shows that this arrangement only works well in those cases where there is good co-operation between the parents.² Custody and access arrangements are usually contained in separation agreements which may be registered in the Court. It is an offence to hinder or prevent access without reasonable excuse and with intent to prevent an order for access to a child from being complied with.³

The current law operates within a framework that places the child's best interests as the paramount consideration. This sits alongside New Zealand's international obligations in article 3 of the United Nations Convention on the Rights of the Child, which emphasises that the interests of the child should be the primary consideration in policy and administrative practices.

Overseas Legislation

A great deal of care is needed in using international models of "joint custody" as this term is used to mean many different things in different jurisdictions. Sometimes joint custody refers to one parent having sole legal custody combined with a shared residence allowing access to children, sometimes it refers to joint legal custody, sometimes to shared physical custody and with a joint legal custody regime and so on.

United States

The material shows that there are many states that have "joint custody" laws, but the precise model for these varies. The movements towards requiring joint custody appears to have been made in an attempt to minimise disputes between parents about legal custody (what is known as guardianship in New Zealand) where one parent was awarded sole physical custody. However, about physical custody subsequently became more common.⁴

As far as I have been able to ascertain in the time available, there is no state of America which has a statute based presumption in favour of equal joint (50:50) *physical* custody of a child where the parents are in dispute.

...

The Shared Parenting Bill

The Bill would replace the current custody law on guardianship and access with the concepts of shared legal and physical custody. It appears, although it is not clear, that the concept of legal custody would replace the concept of guardianship in New Zealand law.

In this respect the Bill would offer parents less protection than the current law, which confers generally irrevocable guardianship rights at the birth of the child.

² *Family Court Custody and Access Research Report 1, "The Welfare of the Child: A Literature Review", Wellington, New Zealand, page 55*

³ *s20A Guardianship Act*

⁴ *K Triantafyllou, Attorney, Massachusetts, 17/3/00*

The stated purpose of the Bill is to “significantly improve the welfare of children whose parents separate or divorce.: This purpose is consistent with the current law which provides that in determining any disputes as to the custody of and access to a child, the determining factors shall be the best interests of the child. However, the Bill is drafted in a way that would not give effect to the best interests of the child, contrary to the current law and to the Convention on the Rights of the Child. The effect of a presumptive provision as to custody arrangements is to restrict the overriding discretion of the Court to make decisions based on the best on the best interests of the child in the particular case. Such a provision may also limit the options of parents wishing to negotiate the arrangement that they consider in the best interests of their child. Presumptions inevitably ignore the diverse and complicated need of separated families.

The Bill does not appear to be based on any empirical New Zealand based research on the effects of the current law on children post-divorce. There is a serious risk therefore that the problems experienced in Australia would follow here, with increase litigation.

The Bill also makes provision for a rebuttable presumption that it is not the child’s best interest to be placed in sole custody or joint physical custody with the perpetrator of the violence. This provision is at odds with the provision in the Guardianship Act which provides that where domestic violence has occurred there is a rebuttable presumption that a violent parent will not be allowed custody or access until it can be shown that the child will be safe. Those provisions were based on well-tested research on the risks to children after separation of the parents and where one parent was violent. The Guardianship Act sets out a clear risk assessment approach taking into account a range of factors including what steps, if any, the violent parent has taken to deal with his or her violent behaviour.

Implications for Outcomes for Women

Practice in a number of overseas jurisdictions shows that in most cases joint physical custody of a child will not be awarded where the parent s are in conflict and, indeed, will only work where the parents are able to communicate effectively. It is difficult to see, therefore, that a presumptive approach to resolution of issues relating to children will result in improved outcomes for women or for children.

A recent study by the Department of Family and Community Services in New South Wales, indicates that policies that encourage and support flexible and co-operative arrangements between the parents are likely to increased the workforce participation and satisfaction of shared care parents.⁸ In situations where these arrangements were chosen by the parties, the key to ensure on-going communication and negotiation. Conflict levels were higher where the arrangements had been imposed by court order. This suggests that workforce participation outcomes for women may well be enhanced with shared parenting arrangements that are genuinely co-operative. In this context, the current law and practice in New Zealand of

⁸ Dickenson et al, *Sharing the care of children post-separation: family dynamics and labour force capacity* Department of Family and Community Services, New South Wales, 1999.

encouraging counselling and mediation in order to foster an environment where parents make mutually agreed decisions seems to remain the preferable approach.

Other Policy Approaches

Any changes to family law and policy in this area should be based on well-tested research. To do otherwise poses great risks to the current system which appears to work well for the majority of cases. In fact, it appears that only 5% of custody applications to the Family Court result in contested hearings.⁹ Any research should focus on the experiences of shared parenting in New Zealand, the views of children, and the views of parents.

New Zealand research on shared parenting shows that in practice this has its own difficulties and requires a strong and workable parenting relationship.¹⁰

In 1997 a New Zealand study of interviews with 27 children in 1997 showed that many children did not understand why their parents had separated. The study showed that children on the whole had adjusted well to the separation although they were initially shocked, upset, angry and sad. Some even saw improvements such as the absence of fighting and more time with their non-custodial parent. Many of the children had experienced their parents' hostile or conflictual relationships and looked for hopeful signs of better relationships. Children on the whole accepted custody and access arrangements although a minority would have preferred living with the other parent (three children) or wanted more access time with their other parent (five children).¹¹

In addition, in May 1999 the Ministry of Justice published a report on the results of research into the new provisions of the Guardianship Act relating to domestic violence. The report, *The Domestic Violence Legislation and Child Access in New Zealand* concluded that the provision for access to children in domestic violence legislation have led to a growing use of access arrangements which are safer for both children and custodial parents. However, the research found that some children continue to be exposed to violence during access. The research also suggested improvements to enhance the protection of children's well-being, including supervised access services for Maori children; access to information for parents; the quality of professional services to parents, access to appropriate support services for Maori parents; the courts' access to information about child safety; the length of time taken to finalise court cases; guidance for informal supervisors of access; safety outside supervised access centres; and the funding of supervised access.

⁹ Busch and Robertson, undated notes, March 2000; see also Morris Report at page 247 paragraph 926 – only a small proportion of family cases involve substantial costs to both parties and the majority of cases are handled effectively and efficiently.

¹⁰ Opie, *Shared parenting: mundane experiences in shared parenting after separation and divorce*. The Family Law bulletin, Nov 1989, vol 2 (4), pp46-52.

¹¹ *Children's Views on Their Parents' Separation*, Butterworths Family Law Journal, Sept 1998, 277.

More generally, the study of women's access to legal services in New Zealand¹² shows that women have significant concerns about their access to civil justice system. A frequent concern reported in that study was that the current family law dispute resolution procedures are particularly damaging to the welfare of women and children when undue time and cost, and increased acrimony within the family, result from procedures being dragged out. There was a particular concern about the Family Court's limited ability to control or censure abusive tactics employed by parties, and its practice in awarding costs.

Overall, women, family court lawyers and judges strongly defend the structure of the Family Court and its procedures. However, there was an acknowledgement that there are difficulties in the Court that contribute to difficulties that women experience. These factors included: backlogs in the courts, overly adversarial tactics by some lawyer, greater volume of cases, lack of court powers to stay repeat applications and punish for contempt, and difficulties in determining the cause of unreasonable delays in order to penalise delaying tactics. Further investigation of ways to enhance existing court processes is clearly been acknowledged as desirable from a wide range of interest groups.

In addition, in 1994 discussion paper indicated that there were ways in which the current counselling and mediation model could be improved to benefit disputes in custody and access cases.¹³ The paper indicates that custody disputes are not actually resolved at mediation conferences particularly often and that other non-judicial dispute resolution methods should be explored in suitable cases. Systems for potentially difficult cases were identified including giving priority to these and for services such as counsel for the child, specialist reports and so on.

Summary

The approach proposed in the Share Parenting Bill appears to be a combination of a range of different laws in other jurisdictions. While the purpose of the Bill is to improve the welfare of children where custody and access are in dispute, the drafting of the Bill may have the opposite effect.

New Zealand research and overseas experience indicates that the better approach is to assess whether there are specific problems in particular cases to try to address those if necessary, rather than to bring forth radical change that is not based on sound research. There appears to be a range of views about how best to improve the current procedures of the Family Court and doing so may assist in resolving more quickly those cases where custody and access is disputed under the current law.

Cath Nesus

Acting Chief Executive

¹² *Women's Access to Legal Services*, Joanne Morris, New Zealand, 1999.

¹³ Hall and Lee, *Family Court Custody and Access Research Report 8: Discussion Paper* Department of Justice, Wellington 1994.

APPENDIX III

Government briefing papers released on Shared Parenting Bill

Press Release New Zealand Government 21/03/00 22:15:00

Women's Affairs Minister Laila Harré says briefing papers released today show Muriel Newman's Shared Parenting Bill is unlikely to achieve its aim of improving the welfare of New Zealand children.

Laila Harré released the Ministry of Women's Affairs briefing papers on Tuesday night at a multi-party meeting of Women MPs.

"The briefing papers present some quite different facts than those being put forward by Dr Newman," she says.

"The Bill demonstrates a lack of understanding about current legislation around custody, access and guardianship and it isn't backed up by evidence."

The briefing papers conclude that the Shared Parenting Bill is not similar to laws in other jurisdictions, particularly the United States, as argued by Dr Newman.

Under New Zealand's current legislation parents come to an agreement over custody in 95% of cases, with only a small percentage of Family Court applications resulting in contested hearings.

Laila Harré says overseas experience shows that joint physical custody is most beneficial to children where parents are able to communicate effectively, something legislation cannot enforce.

"A better approach would be to assess whether there are specific problems in particular cases and to try and address those rather than bring forth radical change through a Bill which isn't based on sound research," she says.

"At this stage the evidence does not back a move away from the paramount consideration being the interests of the child."

ENDS

APPENDIX IV

Welfare of children not advanced by Shared Parenting Bill

Press Release New Zealand Government 22/03/00 19:48:00

The Government has decided not to support the Shared Parenting Bill promoted by ACT's Muriel Newman, Social Services and Employment Minister Steve Maharey said today.

Mr Maharey said that while the bill's stated objectives to promote fairness in child custody arrangements were laudable, it was unlikely that they would be realised or achievable through its provisions. The Government will be giving detailed consideration to a wide range of family matters later this year and this will provide an opportunity to take a considered view of all relevant issues, including those raised in the Newman bill.

"Upholding the rights of children must be the paramount consideration of all custody legislation. The Government agrees that the separation of parents does not, and should not, terminate parental responsibilities for either parent.

"Seeking to promote fairness in situations where child custody and access is being contested is a laudable objective.

"However the Government does not consider that the one size fits all solution promoted by Mrs Newman through this bill is appropriate.

"In attempting to legislate preferred or favoured custody arrangements the bill places the rights of parents above those of children and as such it is inconsistent with other family law statutes.

"New Zealand research shows that joint custody arrangements only work well when there is good co-operation between both parents. My concern about Mrs Newman's bill is that it risks making parental co-operation much harder to achieve and instead invites lawyers into the process.

"Later this year I will be reviewing how the Government deals with a range of child welfare issues. My colleague the Attorney-General, Margaret Wilson, has also indicated that she intends to review the present Guardianship Act around the same time.

"Our view is that, taken together, these evaluations will provide a better opportunity to consider the issues raised by Mrs Newman and that as a result we will be able to arrive a workable solutions which preserve the paramountcy of the rights of children", Steve Maharey said.

ENDS

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HARALD BREIDING-BUSS is father to Linda(5) and Nicky(3), staying home to care for them since Linda was born, though always contributing to the household income. He has been married for 8 years to Hendrikje. He has an MSc in biology and ran a motorcycle hire business for 5 years. He set up the Father&Child Trust in Christchurch in August 1997 that evolved from a playgroup founded in February 1994. He has been the paid coordinator of the Trust since December 1997. His role includes working with ante-natal classes and post-natal groups.

PAUL CALLISTER is a father and a researcher. Trained as an economist, and having spent much of his paid working life in the finance industry, in recent years his research has focussed on shifts in work and family patterns. He has a particular interest in the changing lives of men. His research publications include papers on men as primary caregivers, men and part-time work, men and parental leave, and a history of men's involvement in the Playcentre movement. Paul is also currently on the national committee of the Father&Child Society.

PHILIP CHAPMAN is the inaugural President of the Father&Child Society of New Zealand. He is actively involved in Men's health and parenting issues and over the past few years has been running fathering groups as well as providing support and advocacy for dads. He has recently extended these activities through his involvement in researching the needs of dads. Philip is the father of Louis and lives in Nelson.

FELICITY GOODYEAR-SMITH is a medical practitioner with a special interest and expertise in the fields of sexual assault and domestic violence. For the past six years she has facilitated a support group for people affected by false sexual allegations, including a number of men falsely accused of abusing their children in the context of access and custody disputes. She is currently a Research Fellow at the Department of General Practice & Primary Health Care, University of Auckland, where one of her projects is evaluating the 'Positive Partners, Strong Families' programme, a community-based course teaching communication and conflict resolution skills to couples.

CAROL MCINTOSH is a Health Promotion Advisor with the Public Health Unit of Nelson Marlborough Health Ltd. She has a particular interest in men's health and advocating for more resources to be directed towards improving men's mental and physical health. After initiating recent research by Public Health into the needs of dads she is currently working on improvement in the provision of child and family services from a fathers perspective.

DAVID MITCHELL is a Senior Academic Staff Member in the School of Health Studies at the Nelson Marlborough Institute of Technology. As a father of 3 children he has long been interested in the relationship between gender issues and the health of males. As a registered nurse he is also able to explore this area with the principles embodied in an “ethic of care”. More recently, following post-graduate study, David has been active in applying critical research methods in providing an environment and a process where men can “find their voice”.

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