

*The Real Love that Dare
Not Speak its Name:
A Sometimes Coherent Rant*

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PROLOGUE

BECAUSE OF STATEMENTS I have made on TV and elsewhere, I was invited by the editors to participate in the seminars convened by the Cambridge Socio-Legal Group, and to write what can clearly only be a lay view for this book.

If my contribution is of any use, it will be, I suppose, in the shape of the amateur absolutist and iconoclast. The kicking up of an impassioned, but informed, fuss is the role Nature seems to have assigned me. Family law is not my field of expertise but it is certainly my field of experience and like many, many men in this country, it left me feeling criminalised, belittled, worthless, powerless and irrelevant. I wrote this chapter very quickly, allowing those emotions to determine the outcome.

I had no idea, and did not even care, whether it made sense or had any basis in fact but it was all true, and was what I and thousands more had experienced and found wanting. I assumed that my eminent collaborators in this work would be embarrassed by me and unwittingly patronising. They were not. They were in fact hugely tolerant, sympathetic and often, to my dismay, in agreement with my inchoate groping towards the dark heart of this matter. I learned much from them.

They sent me papers which put solid, researched fact behind my assumptions and observations. They argued amongst themselves, and with me, over parts of the piece. In the end, however, I have changed nothing because I believe still that what I wrote is true and just. Its emotional tone is what is required to change this hugely destructive assault on our personal lives, which in turn endangers this society through an onerous and disgraceful Family Law and the system that must implement it.

I have tried incorporating supportive texts and arguments into the body of the piece to lend a greater credibility or weight—texts which my colleagues sent me, arguments which were thrashed out in the seminar—but it seemed presumptuous. I do not want to give the impression that I am an expert or

pseudo-professional. I am not. But maybe, unlike them, I am someone lacerated by this law, which contributed massively to the misery of my family. That is expert enough. Instead, claiming, and being allowed privileged, non-academic and profoundly unprofessional behaviour by my weary editors, I have included in an addendum the relevant texts, quotes, arguments and statistics (referring to them in the main text by number, with the references I have come across). I hope they serve three functions: firstly, they give credence to my uninformed thought; secondly, they make me appear a little less extreme or idiotic; and finally they may help force the sure and soon day that these baleful diktats will be scornfully shoved aside.

* * *

Family Law as it currently stands does not work. It is rarely of benefit to the child, and promotes injustice, conflict and unhappiness on a massive scale.^{29,43,45}

This law will not work for the reason that society itself and society's expectations have changed utterly.

Law must constantly evolve in order to keep pace with the dynamics of the society within which it is framed.

Social law, specifically that governing human relationships, will need to evolve ever faster particularly in an age of unprecedented and confusing change. Deeply cherished nostrums of the ages are as nothing when confronted with a different moral structure to that in which those beliefs took root.

The endless proposed adjustments with Family Law will not do. They do not eliminate the injustices or aid the intended beneficiaries. An unthinking tinkering with Family Law becomes unjustified tampering with peoples lives.

Adjustments imply satisfaction with the core structure, but in the case of Family Law, my view is that this is inappropriate on the basis that this same law promotes pain, hurt and broken families in direct and unintended contradiction to its purpose.^{33,43,44,45} It serves merely to compound the self-inflicted damage done to the individuals who come before it.

Therefore, just as society appears to be in a state of fundamental and perhaps revolutionary change, the professionals of the law must be prepared to think afresh, and act boldly.^{38,44}

This would mean new basic law.

I understand few believe this is necessary, and that it is too drastic or dangerously radical or just silly but I will try to give my, no doubt, poorly conceived notions a rationale.

Sometimes my attempt at being dispassionate will fail and I will be seized by the actual deep rage I feel at what the system has done to my family, myself and many others I know personally or from the over 70 plastic bin liners of letters I have received from individuals unknown to me. This amounts to thousands of

letters. Many more than I ever received during Live Aid or the Boomtown Rats or at any other period of my 'public life'. As Bob Dylan might have said 'Something's going on and you don't know what it is. Do you Lord Chief Justice Whatever-your-name-is?'

We'd better find out.

I will try and break down the factors that I believe have changed and which, as a result, require a change of law. Beyond that this is the story of those 70 bin liners—the love of fathers for their children.

1. SOCIETY

Given that the birth of children through the institution of marriage and the desired end result of Family as the basic block of society is of cardinal importance to our stability and social coherence we must start here.^{60,61} All of the assumptions in the above sentence however are now up for grabs.^{50,63}

Today, Government tries to deal with differing views of what is Family, and each view insists upon equal validity. This is perhaps inevitable in an age of moral relativism, itself an adjunct to our secular times. This alone is a massive change and something some members of the judiciary seem to be unable to grasp.

The real and significant change that occurred however, the paradigm shift as an American might say, was of course, the 'emancipation' of women.^{1,34,36,38}

Financial freedom, and the end of biological determinism, produced an overdue and welcome balance in society. Its disruptive consequences to the status quo however, could not be predicted but it has been massive and it has not stopped yet.

Economics determine social arrangements. It has affected all areas of society but most profoundly and inevitably in the relationship between the sexes and, as a result, Family. There have been other exogenous factors contributing to societal shifts but the effect of women free to enter the workplace has given rise to consumerism, altered production, home ownership and house building models, and whole areas of law and sentiment within society itself. Very little has been left unchanged by this huge and positive social movement and most of those changes have strained the old glues that bound the family into the breadwinner/nurturer/children model.³⁸

This model worked well enough for centuries and where it can still be sustained works well today. The cardinal and excellent difference between now and the past is that it is not clear until it is determined by the couples in question who will do the breadwinning and who the nurturing or whether it will be both simultaneously.

And yet while individuals struggle with these difficult new conundrums the law governing the, if you will, 'intimate' parts of society, the 'personal' laws, remain (though some are fairly recently drafted) resolutely unaltered in their presumptions, save for the pathetic pretence that they are gender neutral. This is a grotesque lie that all Family Law professionals have tacitly agreed to be

party to, as willingly acknowledged by nearly all the lawyers I have talked to on this issue.^{26,28} And regardless of whether the professionals acknowledge it to be or not, the vast majority of my correspondents, friends and others regard it to be so. If this is the commonly held view then the law *will* change. It is simply a question of when.

The law appears unwilling or unable to accept the change in the way we now barter our relationships. The altered state of women has of course produced the altered state of men. Men cannot be the same because women are not.⁵ The law will not acknowledge this and it must.⁴ It appears bewildered, as indeed famously do the men in question. What is their new role? What is expected of them? How do they now define themselves in this more fluid brave new world? And if the world is more fluid, if it now flexes, bends and warps like morality itself, why is the law so rigid, so inflexible and fixed that its application to individuals binds them to an overweening and restrictive State of Orwellian proportions—the common experience of those who find themselves as victims of the secret world of Family Law.

Divorcees are not criminals, women are not angels, men are not ogres. Recent rulings have produced two classic examples of the bewildering and blinkered confusion at the inflexible heart of the law. One ruling was given against the man who had successfully raised his children at home for 5 years while his wife went to work. She got the children??? She got them because she was a woman. The eminent male judge in question said so.⁴ Two weeks later, another ruling by the same judge was given *against* a woman who sought potential lovers on the Internet. The children were given to the man??? These rulings show no understanding of contemporary society, they appear flagrantly prejudiced and discriminatory in clear breach of any 'gender neutral' guidelines or law, and perfectly illustrate the law's inability to come to terms with the modern age. The law must now root itself in reality and not social work theorising or emotive or traditional notions of men and women's roles. I am not the first to call for this: a recent report published by the Work Foundation, which argues for father-friendly workplaces, notes that:

Older fathers—the dinosaur dads—are currently the ones in the most senior positions and so have a disproportionate influence. Most continue to see the world through the lens of their own generation's experience i.e. a world of bread winning men and child-rearing women. (Reeves, 2002).

Something like 51 per cent of the workforce are women. The implication of this figure is staggering and yet does not appear to be considered in relation to family law. In addition men now hold a completely different view of the parenting role than before. Again this is a huge philosophical shift which has enormous implications.^{11,16,28}

There are no studies which suggest that a child brought up by a man (as I was) display any marked psychological or emotional characteristics different to one raised by a woman.³

The contention that women are inherently better nurturers is wrong.^{3,4,7,22,23,28} Rulings appear to be based on the 'sugar and spice and all things nice' school of Biological Determinism rather than on anything more significant. The law to its eternal discredit stands in the way of great and important cultural and social progression and as such will be swept aside despite the legal Luddites who opine secretly from their benches. Kimmell (2002) is entirely correct in asserting that if the later twentieth century saw the transformation of women's lives then the transformation of the twenty-first century involves the transformation of men's lives, and by definition the lives of their children.

My complaints are not the moans of the unsuccessful litigant. I, in fact, was 'successful'. This was someone dismayed by the inappropriateness of the law to the everyday.

Nor is this the complaint of the proto-misogynist, indeed the law is so inept it produces misandrists in equal measure, but rather the irritation and anger of someone who sees exact parallels with women's struggle against assumptions, bias and prejudice.

2. LANGUAGE

We have indeed been here before. Female emancipationists of the 60s and 70s found, as they set out their agenda for change, that the very language militated against them. The issue of language becomes incredibly potent as attitudes change. Words once used frequently become freshly freighted with meaning, emotion and unintended insult and need to be changed. This of course can escalate to the realms of madness and the thought police (rather like the consequences of Family Law) but in the everyday use and their meaning, and therefore import, they carry whole ideas that when heard afresh from a different perspective need to be adjusted. This is never more true than in the language used in Family Law.

In this new era of 'Family Liberation' as it were, where the law itself and its officers, attendants and practitioners are the instruments of reaction and discrimination, the language used to discuss the personal appears to have been deliberately chosen to be as cold, deadening and hopeless as possible in the hope of appearing neutral. In fact it becomes heartbreaking, hurtful, rage inducing and an instrument of absolute harm in the entire process.

I cannot even say the words. A huge emptiness would well in my stomach, a deep loathing for those who would deign to tell me they would ALLOW me ACCESS to my children—those I loved above all, those I created, those who gave meaning to everything I did, those that were the very best of us two and the absolute physical manifestation of our once blinding love. Who the fuck are they that they should ALLOW anything? REASONABLE CONTACT!!! Is the law mad? Am I a criminal? An ABSENT parent. A RESIDENT/

NON-RESIDENT parent. This Lawspeak which you all speak so fluently, so unthinkingly, so hurtfully, must go.

Indeed, like the law returning to a wholesale root and branch re-drafting as I believe it must, we should look while we're here at the two most basic words that permeate this issue: Mother and Father.

If a woman 'mothers' a child an entire warm universe of nurturing is conjured. If a man 'fathers' a child it implies nothing more than the swift biological function involved in the procreative act. The importance of language is critical. It expresses whole ideas for us and, in the case of the above loaded examples come with assumptions upon which laws are based and judgments made that can destroy people and their lives.

So society, ideas, language itself has changed but the law has not. This law framed by people, albeit 'experts', of other generations and classes have imbued the drafting with their own prejudices, theories and philosophies. Of course it was done with benign intent but so were all laws of previous times which have subsequently been abandoned.^{43,44}

Laws which no longer apply to society, notoriously become widely ignored and therefore impossible to implement. Punishment is redundant in something not recognised as a breach viz the current debate on drug legalisation upsetting generations of hitherto accepted nostrums.

Some professionals within the law accept this or at least feel an as yet inchoate discontent and anxiety towards the law on the part of huge numbers of people who fall under its intolerable weight. They seek to tinker, modify, add or subtract and adjust but it is pointless. These legalistic tweakings are utterly impotent against this growing tide of ill-feeling and anger against the law itself. We have all moved on from its assumptions and the law must now be re-appraised and torn open to its heart, for it has no soul.

It is the movement of society that determines law, not its draftees and implementers. Society will always move forward re-inventing the moral parameters in which it needs to operate in order to facilitate its new thinking and consequently different modes of behaviour. The law runs after society—a legal pooper-scooper—sweeping up its unasked for droppings and disposing of them. The law seeks to put a legal frame around where society has already gone in order to protect it from the often unanticipated consequences of its moral behaviour.^{44,46,48,50}

3. MARRIAGE

Marriage has become meaningless. It may retain its romantic ideal connotations but has it any import beyond the dress, the cake, the speech and the drunk uncle?⁶⁰

The law gives it no value whatsoever save the occasional and typical denial of a man's parental rights when he is an unmarried father.⁵⁹ Some financial

considerations are taken on board but these can be augmented by the courts, generally in favour of the woman, should it be required. And . . . that's it.^{41,46,60}

But if the law has devalued its view of marriage to be as nothing, what does it mean outside of that view. When during a long-term relationship your girlfriend annoyingly and inevitably raises the issue of 'commitment' she means it. She means the commitment that couple will make to bring children into the world and raise them as useful members of society. It is this that gives the man pause for thought. If he decides to 'commit' it must be that, inherent in this compact, is the real, desired expectation that he, like the mother, will have the privilege of raising that child to adulthood. She in turn desires the 'commitment'. Simply having a child isn't a problem; but the commitment gives the sure and probably innate knowledge that the child will have better chances of survival with the two parents and their respective roles than the one. This is the real weight behind marriage which the law seems to have opted out from. How odd that we should have to repeat the obvious and the commonplace. Except that this too can no longer be assumed. Single parent families become a more frequent option.⁶¹ With economic freedom some women feel they can now raise the child single-handedly. But so can men.^{3,8} What's sauce for the goose as they say is sauce for the gander (except of course in the eyes of Family Law). However if these assumptions are correct, then this removes the absolute rationale behind marriage.

Nonetheless society accepts that the ideal of the two parents is more beneficial and we therefore try to encourage the continuation of the institution of marriage while doing nothing legally or economically to support it.⁴¹ An act of grotesque moral hypocrisy.^{44,48-50,54,61}

While we appear to encourage our young to get married we rarely explain to them what its consequences will be. This has disastrous results. Bombarded as we are with all sorts of cultural messages, we have learned, through TV, the main cultural arbiter, and its populist programmes, a childlike and naive view of marriage with extremely high and unsustainable levels of expectation.

The happiness of the wedding day will be assumed to continue unaltered through life, as we fondly imagine it once did. And still today most of us long for and strive for a lifelong relationship with the one partner. We view this with moral approval and we're probably right. Unfortunately today with a near 50 per cent divorce rate, it is increasingly unlikely to be the case.

We should support this institution and educate people again to the true meaning and nature of marriage. That which our parents had explained to them, those examples of a 'normal' marriage which were all around and clearly visible to the participants in another age, has dissolved in our more fractured society.^{46,60} Equally the law must stop pretending and insisting that the dissolution of a relationship is fault-free—it never is.^{17,42,58} This again is convenient but it is another disastrous moral failure on the part of the law. One understands what the law is trying to do, but in pretending it is non-judgemental (ie morally neutral) it lessens the importance of the institution and allows its dissolution to be

that much easier, which is not, as I've argued, in society's interest and by extension, not in the interest of the child.^{44,50,54} This failure becomes full-blown when divorce is embarked upon, which I will discuss shortly.

The nullity of marriage becomes a Potemkin Village of the heart upon signature of the marriage contract and the utterance of the oath.

This is the great act of State betrayal. The moment the great pantomime or charade begins. At this point the man ceases to be an equal partner in anything but name. And he'd better hang in there or risk losing everything he's had and be forced under pain of pursuit, prosecution and imprisonment, using the full panoply of the State, to be sometimes in effect nothing better than a wage slave for life.

For both the oath and the contract are void and meaningless. What are they for? In life when one signs a contract one reasonably expects the other person to uphold their end of the deal. That is the contract's purpose. A legal thrashing-out of obligations between the parties, failure of which to uphold results in sanctions. Certainly in business, should one fail in one's contractual obligation, one would face dire consequences.^{49,54,58,59,62}

And there's the cardinal mistake—marriage has obligations and responsibilities. It's a grown-up's game. But if the consequences of marriage become tiresome why not escape them? Divorce for a large number of women, but not for the man and children, is consequence free.^{42,62} So what of obligation and responsibility? What of the oath, the contract? What of sanction? The law is silent.⁵⁹

At this point the initial moral failure of the law is compounded into a freefall of hypocrisy, gender-biased assumptions, discrimination, suspension of rights and all the other baleful results of a morally neutral law.⁵⁸ How can such a thing exist? It is impossible to have judgement with neutral consequence. Family Law is a sophist's delight. No law is morally neutral and when it pretends to be, and behaves as though it were, it has, by definition, become a travesty of justice.⁴³

What may be done?

The contract must have weight and meaning and it should spell out what is expected of the parties in the case of children and also the terms under which a marriage may be dissolved.⁵³

At the point of misgivings in a relationship there should be mandatory discussions with an authority who cannot recommend the dissolution of the contract.^{48,51,52,57}

It should spell out the consequences, which are null should it simply be two individuals who are involved, but if there are young children involved, the matter should be thoroughly dwelt upon, all help given to the participants and the consequences of divorce spelt out and they must be equally onerous to both parties. It would be helpful were this to be spelt out in pre-marriage meetings also.^{49,52,53}

It makes clear that this marriage is a serious thing, society takes it seriously. It is not to be entered into and dissolved on whim, making light of it is a profound mistake, this contract says so and this contract will be upheld.^{49,58,59}

Again this process should re-occur before the separation of a partnership and the dissolution of a contract. When the initial stage has ended and the participants still wish to proceed with divorce, fully cognizant of its consequences, then and only then at this point should it go to law with the judge being obliged to take full weight of the arbitrator's view.^{51,52,57}

Marriage must become real and meaningful again.^{44,60,61} It must be taught in school as the relationship paradigm with good parenting being the desired peak of social approval, which it is not at present.²¹

The durability or otherwise of the romantic ideal of love and its development to more profound emotional depths needs to be explained and illustrated. The social dynamic between men and women talked about with regard to their school, family and the wider community and what its purpose is.⁶¹

This is not social engineering—this is picking up the slack that modern society has thought unimportant. This is doing the job that was self-evident to most people, pre-divorce meltdown.^{40,56}

It may not make much difference, but it may begin to alter the view of responsibility and re-introduce peer group pressure to behave in a certain way in order to obtain societal approval.⁴⁶

4. DIVORCE

Sometimes, for whatever reason, Britain becomes the lightning rod for social change. Who could have predicted the disastrous levels of divorce unique to the UK?⁴⁵ What great failure is at work here? There is much hand wringing and soul searching and everyone has their theories. I think it's because we're more stupid and our schools suck and as a society we no longer care enough. It's called decadence.⁴⁶

Certainly from the once seemingly homogenous vertical society that once pertained we have become more fissiparous and horizontal. (Like me really). And it happened very quickly as things tend to do in small islands with large populations.^{20,44} In more coherent or classically homogenous societies like my home country of Ireland, only 11,000 people have sought divorce since it was permitted seven years ago, though this too is changing. Secularism, and its twins materialism and consumerism, have not yet taken root so much there, extended families still play an important function, it is more of a child-centred society and parental authority is for most still considered absolute. Finally, the moral value of promise and its concomitant social disapproval of separation is strong. 'Yiv made yer own bed, now lie on it!' is often heard and is ill-disguised code for Grow Up.^{46,58}

Other societies teach recommended relationship behaviour earlier and this seems to have some effect but what is sure is that other modern philosophical and moral ideas have become the motor of social change here.⁶⁰

The mutual dependency that was the glue to previous generations and their marriages no longer pertains in the financially independent world. So what is to

replace it now? Why not divorce when things get boring, sticky, sulky, difficult, predictable, you've changed, I've changed, you need to change, I can't change etc.?

Why not divorce when there's no downside? If I was a woman I would. Indeed were I a woman and realised I could hop off with the new man/men, keep the house, keep the kids, give up work AND get paid . . . forever . . . well, Hello Opportunity Knocks!^{13,42,53,54,59,62,64}

If he becomes irritating about the kids I can have the courts stop him phoning them. I can stop him seeing them without any consequence; even if the court orders me to I'll just refuse to do it and if he doesn't pay, why I'll just get the court to order the CSA to rifle his accounts and seize whatever assets he has left and if all else fails they'll put him in jail for me . . . And then maybe I'll leave the area and change the child's surname while I'm at it. Yep the ol' divorce-as-career move.^{13,37,42,48,52,54,55,59,62,64}

No doubt some readers will view the above as 'unhelpful'. That's too bad because that is what's going on in too many cases. It's true, we never talk about it, we know it's going on, it's become normal because of its ubiquity but we should talk long and hard about it. We should drag it out into the light because that same ubiquity will never make it right and its reality makes it a hindrance to reform and a barrier to stemming the divorce tide.

There is a very grave injustice happening here and I suggest it is high time that it was addressed.

Many will read Bob the embittered, abandoned husband in this. They will be quite wrong. My personal response to my situation was shock and dismay, pain, emptiness and loss. I was embittered only with the law and my consequent lack of rights as a man.

This is not the right way to behave in supposed fault-free, gender neutral, consequence-free divorce law. I am only too aware of the pain and hurt and loss that women suffer in divorce but it is equally and empirically true that it is as nothing compared to the physical, financial and emotional loss of men. She may lose her man, he loses the lot. There must be an equality of burden. Neither gender neutral nor consequence free but consequence balanced.^{37,39,42,49,52,59,62,64}

If he is the offending party people believe it's right he should leave the house and kids and pay for them. He has, after all, in effect abandoned them for his own selfish needs and therefore he should pay. He even half thinks this is his guilt.³⁷

But rarely does he think I've got a new woman, I'm happier, so I'll just take the kids and go off to this new life. Indeed society would view it askance if he took the kids. Why? We don't if she does precisely the same. Why? If he took the kids it would be viewed as abduction, but not if she does. Why?

If she is unhappy she asks him to leave the house. We think that's ok. If he's unhappy and he demanded she leave we'd think it was weird and unmanly. Why? And indeed if she did leave we'd think she was a slut who'd abandoned her kids to that bastard. Why?

The gross imbalance that leads to this manifestly, gender based and discriminatory injustice is based on the original sin of the Family Law, page one, chapter one.

The law is currently heavily weighted in favour of women. This is acknowledged by most commentators and lawyers when they are being honest. I can accept that this was not the intent, but it is the inevitable and unjust end logic to a set of prejudiced assumptions.^{2,5,28,30}

The first correct assumption is that the law should always act in the best interests of the child. Fine, we can all agree with that. But, though it's heresy to say it and for fear of being thought a heartless, ill-feeling brute, I guess philosophically there's an argument as to why any one group's rights and interests should have paramouncy over another's, particularly if those other parties' rights are ignored or denied in order to support the others. I raise the question here because at last the advent of the Human Rights Act legitimises a rights-based debate within the child welfare discourse (see Bainham, this volume).

Extrapolating the logic of that into wider areas takes one to frightening places. And again if we are to look at all aspects of this law we should particularly examine in detail its base assumption, especially if the group around whom the assumptions were made, and the law framed initially to defend, may suffer as a direct result of the law's intent. In other words the instrument set up to act in a child's interests has the exact opposite effect.

Certainly in centuries to come all our laws will appear fairly comical and none more so than those struggling to cope with social change and its consequences. I wonder whether they will consider us dewy-eyed and emotional, blinding ourselves to reason to the detriment of all concerned and the benefit of nobody.

Will they make a joke of this blinding of reason and contrast it with the emblematic portrayal of blind Justice itself and the absolute reversal of its meaning.

Still we've agreed. Where we begin to disagree comes next in the unwritten and unspoken but clearly understood corollary of that first assumption and that is: that the law believes that the interests of the child are nearly always best served by the presence of the mother.^{24,28,30} This is simply wrong. It is emotive and traditional and does not bear scrutiny.^{2,3,7} What flows from this well meaning but intellectually flabby cardinal mistake is a catalogue of injustice, misery and cack-handed interference by an overweening state assuming for itself onerous responsibility over free born citizens.

Obviously, though it is unspoken and unwritten, we know this corollary to exist because only in rare cases, and then in exceptional circumstances, will a man be allowed to raise his children,^{8,11,16,39} something that outside the justice system and within society is assumed to be inalienable upon his child's birth.

The professionals will argue that this in fact pertains, and is indeed, their very *raison d'être*. This would of course be disingenuous nonsense.^{25,26,28} The law in reality exists to favour and facilitate the mother-and-child construct, to the almost total exclusion of the father.^{24-28,30} The father is viewed as being, and certainly is given the impression of being, a tiresome irrelevance.^{2,6,9,23-26,28,30} Or at least of

tertiary importance. The hurdles that the courts put in the father's way become so tortuous and painful to negotiate that most 'good' fathers give up within two years. For to continue is to invite chronic health problems to a futile end.

The law must know it is contributing to the problem. It is creating vast wells of misery, massive discontent, an unstable society of feral children and feckless adolescents who have no understanding of authority or ultimate sanction, no knowledge of a man's love and how it is different but equal to a woman's, irresponsible mothers, drifting, hopeless fathers, problem and violent ill-educated sons and daughters, a disconnect from the extended family and society at large, vast swathes of cynicism and repeat pattern behaviour in subsequent adult relationships. So many of us are hurting and yet the law will treat the man in court (if my case is typical) with contempt, suspicion, disdain and hostility and not as its ally and the second leg of this now crippled corpus without whom the whole thing falls over.^{11,24,28,30}

The further injustices of loss pertaining to men all flow from the above. He has already lost his wife—the person he loved, his children—prized above all, the house in which to keep the children, his home—that metaphysical place of being, signifying rest and comfort and belonging, his right to be a parent and its concomitant authority—for that now goes to the State and, of course, his money, often his health and frequently his job. Good, eh? And still we believe this law works. It is a disgrace.

When the marriage contract is a cynical worthless sham, when divorce for a lot of women is either relatively painless or consequence-free, then marriage can become a one-stop shop to self-fulfilment and divorce a career move.^{53,62} On the other hand, for men it is a zero sum game with (literally) a 50-50 gamble. The resulting mess is the Family industry's (of which this volume is simply another branch) sole *raison d'être*.

No doubt professionals will decry this view. But it is a commonly held one, it is certainly mine and my acquaintances, men and women alike, and I would be supported by the large bulk of the thousands of letters I have received. Indeed, if everything in the garden were so rosy why this book, why the Lord Chancellor's report and the endless stream of surveys, studies and reports all categorising the failures I have just articulated, So many of you out there tinkering and foostering (as my father might say) Why? Rip it down. Start again. It's broke. Get a new car.

5. POST-DIVORCE

Seeing Your Children

Everything can be tolerable until the children are taken from you. I cannot begin to describe the pain, the awful eviscerating pain of being handed a note, sanctioned by your (still) wife with whom you had made these little things, with whom you had been present at their birth and previously had felt grow and kick

and tumble and turn and watched the scans and felt intense manly pride and profound love for before they were even born, had changed them, taught them to talk, read and add, wrestled and played with, walked them to school, picked them up, made tea with, bathed and dressed, put them to bed, cuddled and lay with in your arms and sang to sleep, felt them and smelt them around you at all times, alert even in sleep to the slightest shift in their breathing . . . a note that will ALLOW you ACCESS to these things who are the best of you . . . ALLOW mark you, REASONABLE !!!! ACCESS?!?!?! to those whom two weeks ago you couldn't wait for to walk in the door at home.^{23,25}

What have you done? Why are you being punished (for that's what it appears)? How can she be allowed to dictate what I can or can't do with regard to MY children? When did she assume control? Why do I have no authority any longer?^{6,13,24,26} What's going on? She wants to leave. OK there's nothing I can do about that. What's that got to do with the kids and me? Were I to issue her a similar note what would happen? What then the assumptions?

I still ask these questions. Why is one treated as a criminal? Why is the language that of the prison visit? Why is the person (and I'm being restrained because it is nearly always the woman but we're actually not meant to say that for fear of being labelled misogynist and to maintain Family Laws fig-leaf of fiction) who has taken the children, or been left with them, suddenly given immense emotional, legal and financial power over the other party. Yes, yes I know in theory that until certain procedural moves have occurred one has equal dibs but in practice you don't because they've gone.^{24,39}

It is easy to see why women resist intrusion in parenting by men.¹¹ Why give up the one monopoly you have.^{6,16} A key part of gender equality has to be improving the deal on offer to men.^{1,2,39,40}

The children have immediately become the weapon and the shield. It is at this juncture that things spiral into acrimony, bitterness, loathing, hate and rage.

It is of course the power that is the intoxicant. Where hitherto it had been a partnership of equals now the party with the children can largely control events. The resulting feeling of helplessness, hopelessness and powerlessness on the other side results in either withdrawal into weary defeat and supine acceptance of being beaten—being raped actually, for it shares the symptoms of being overwhelmed hopelessly in the face of brute hatred and power—or like endless examples of powerless peoples you fight viciously, for you have nothing left to lose. There is nothing more desperate than the impotent. Losing control of one's life is a desperate experience, having someone else being able to exert control over it is worse.

The Weapon and the Shield

The Weapon: 'Do as I say or you won't see the children.'

The Shield: 'Don't do that to me or you won't see the children'.

'Behave well or I'll report it. Don't telephone, it's harassment. I don't care you wish to say goodnight. I don't want you to and neither do the children. Stop now before I have it forbidden. If you do it again I'll call the police. Don't write to them. It upsets them. They think it's weird.'¹⁷⁻¹⁹

'You look a mess. It's not my fault you're not sleeping, obviously you're incapable of looking after them, no, you can't take them. I know we agreed but I'm not having them see you like this. Stop pleading it's pathetic. Go home or I'll call the police.'

And so you turn from your own door. Dismissed peremptorily like a penitent tramp. Inside—*inches* away, is your family, the key to the door is still in your pocket. It still fits. Your key, your house, your family. That night you must see them. You must touch them and smell them. You drive, fear rising to hysterical levels near to the house. Not too near—she'll see or hear. You walk to the door. Utter panic rising. Fear of this girl you loved beyond reason. Everything's weird. Disconnected. Unreal beyond imagination. There's the door. In front of it you pause. You raise your hand. You feel like a madman but you only want to say goodnight to your babies. You lift the doorknocker and listen hard. Inside—*inches* from you, you hear them laughing. Your family. That you made. You worked for everything they're sitting on, sleeping in, eating. They're telling some story or joke that you can't hear. A joke that two weeks ago you'd have been laughing at too. They're inside. You're outside—why? Too scared you gently lower the knocker and retreat to the car. You park near the house and turn off the lights and engine. You sit and wait 'til all the bedroom lights go out. As each one goes you whisper 'goodnight' to yourself like a madman. After the last light has gone you sit and sob, hoping no-one sees you, waiting 'til you're able to drive again.

Why is that allowed to happen?²⁹

This disgusting law that imposes that fear and panic on people must be destroyed. In your loss and grief how is this supportable? And why should it be so. Who are these people that impose this law and how dare they?^{16,25,26,30}

Some readers will know better than I the incidence of serious illness in men arising from divorce. It is far higher than in women. Why is this? Everyone knows the effect of divorce in terms of employment and homelessness. Again far greater than for women. Why? Everyone knows the relationship between alcoholism and divorce, again greater for men. Why? Don't you think this is serious enough to insist on change?⁴¹ Count the economic and social cost if that means more to you than the human, but when you finally achieve a negative sum, ask Why?

What more is required to make men the same in the eyes of the law as they are in the eyes of their children. To avoid all the foregoing is relatively simple. Men must be accorded equal status under the law. Currently they are not and presently they must be. No bromides or platitudes should be acceptable from now on.^{2,30,38,40}

The first way to achieve this, to put meat on the marriage contract and render divorce as significant for women as it is for men, is to give men the same status as parent immediately upon separation.

There must be an immediate presumption, as there has been in Denmark since January 2002 that the children, where possible, will live with the father 50 per cent of the time. Should this prove impossible the children must be free to be with their dads 50 per cent of the time or allow a mutually acceptable arrangement to be arrived at by both parties. Isn't that eminently civilised?

In the course of the seminars which informed this book, we discussed a cultural, and therefore legal, bias that men shouldn't raise their children if they're toddlers. Why not?^{3,14,15,23,33,63} Who do you think looked after them when Mum was at work or otherwise out? Who changed their nappies or did the bottles. What period of time do some of you live in? And if a man doesn't know how to do it initially, like most first time mothers, it is easily learned.^{20,22,23} Relationship courses within school and during the mandatory pre-marriage classes could helpfully incorporate baby care and parenting skills within their agenda.^{3,20,21} Clearly there may be difficulties with breast-fed babies but these are not insurmountable, and some allowances would have to be made in this and several other circumstances, but these are details in the overall concept and can be dealt with. The principle remains and it is that principle of equality that must be central.⁴⁰

Herring (this volume) reports cases in which women who wished to move out of the area or even territory or jurisdiction were allowed to, because, well it's obvious innit, she'll be-unhappy-if-we-don't-let-her-and-that's-clearly-not-in-the-best-interest-of-the-child-now-is-it? . . . and therefore she should be allowed!!!^{30,33}

Am I the only one who reads this and thinks this is a world gone insane? Even if I take the utterly warped logic of the courts, how can they believe that the child never seeing their father again until they meet a stranger some day as an adult is in the best interest of anyone. While of course he pays for this child who he will never see. A particularly futile way of living I would venture—I don't think I'd bother.²⁹

Herring also reports judicial disapproval for a man who objected to a woman who wished to change the child's surname.³⁰ 'A poor sort of parent' is what this unfortunate was called, whose child would at least know who she and her father were before the past and her identity were stripped, like a Stalinist photograph, out of her family's history. He was not allowed even to give her his name. Her family name. So a man is to be stripped of even that. He is to be utterly expunged from the past. The past and he never happened. The child was a miracle birth. The father of no consequence. A figment of a time. Best forgotten. Let's move on. Year Zero is now and forever.^{24,29,30,33,38}

It is unfortunate in these people's eyes, but ultimately academic, that children are genetically 50 per cent of the man and perhaps that selfish gene which drove this man to express genetic infinity with his partner through their children should just go away and conveniently disappear. But I doubt he will. The contempt shown to the father is nonetheless, you will agree, utterly breathtaking. Or will you?

The principle of 50 per cent of everything, the same for mother and father, must pertain. We have seen the rise of dual-career couples; now we need dual-carer couples. The best people to provide this care are almost always parents. And we mean parents—not just mothers.^{3,14,15} Indeed the reality of this would help to neutralise the divorce advantage I describe above. Advantage is, of course, a non-issue where there's economic equality between the parties. In poverty, divorce simply exacerbates the penury, in wealth it is academic. But, whether in cases of poverty or wealth, an equal child-sharing arrangement would be advantageous. Hopefully, it would help both parents to be free to earn a living and pursue their independent lives, and achieve and maintain greater amicability between them, which will in turn benefit their children. I am not blind to the impact this will have on the demand for affordable housing, but this is essentially no different to the already huge housing crisis caused by divorce and other factors now busily chewing up the green belt.

Seven million people live alone today as opposed to 1.5 million 50 years ago. This change has been driven partly by the fivefold increase in divorce during the same period and which, in turn, has driven the huge demand for housing and the concomitant rise in price. 80 per cent of all new social housing is for single parents. The government must address this core feature of the housing crisis and aid those who care for their children to do so, especially in lower income cases, whether it be through more shared ownership schemes run by local authorities, greater investment in housing development, or tax relief, etc. The detail of this can come later. However it is clear that the social and economic cost benefits of such policies will far outweigh the current price of social disintegration.

As to those who can't or won't or don't want to participate in this arrangement, then the parties can work out something of mutual convenience and benefit to the children.

Work patterns have altered considerably: flexi-time, work-from-home, the 35 hour week, and, with increasingly aware employers, will alter further. Should new legislation be enacted allowing equal time as a norm, as increasingly happens elsewhere, it would become necessary for employers to accommodate this.

Working hours are stuck in the industrial era. They are also stuck in an age where few employees had to worry about school runs or nursery pick-ups. The Work Foundation (2001) has already called for legislation giving all employees the right to request a change of working conditions (which will be granted to the parents of young children from April 2003). It is now time the government recognised that granting employees more control over their hours increases productivity (Knell and Savage, 2001), and that, according to a recent survey of respondents views about their 'work-life' balance, fathers want flexitime, a compressed working week and the chance to work at home (O'Brien and Schemilt, 2002).

Obviously I have not dealt with domestic violence or abuse of any kind. However it should be understood as a given that there will be a small minority of circumstances in which the 50-50 presumption should not apply and may not even be safe—we have a child protection system which should and must deal

with those cases – but in all others, the presumption should prevail. However, even in such cases, as with many aspects of family law, it should not be overlooked that the assumptions and biases pertaining to abuse and violence—that perpetrators in the main are men—are often overwhelmingly contradicted by empirical and surprising fact which I have cited in the Addendum.^{32–36}

So the marriage contract is meaningless. Divorce is consequence free. The law is biased and its premise discriminatory. What is left of this hollow sham? The thing that makes any law a laughing stock and worthless—the utter moral failure or lack of will or inability to implement its own orders or impose its authority with all the powers and sanctions it has awarded itself. Except in the case of male non-compliance of course.

The Reality of ‘Contact’

The implication of any order determining the father’s allotted time with his children is that he was always of secondary importance within the household.^{2,8,9,10,11,28} Indeed this would appear to be again the unspoken assumption underpinning the whole farrago. The weasel words ‘gender neutral’, and the oft stated pieties of equality occur so frequently one would be forgiven for thinking that if one says them often enough we could convince ourselves we actually are administering a fair system. But these words, like all the other alibi utterances such as REASONABLE CONTACT, will never disguise the underlying reality of painful discriminatory practice.

Reasonable contact is an oxymoron. The fact that as a father you are forbidden from seeing your children except (like a visit to the dentist) at State-appointed moments is by definition UNreasonable. The fact that you must VISIT your family as opposed to live with them is unreasonable. I suppose CONTACT as an idea works. One does become like a visitor from Mars, infrequent and odd, making contact with strangers in an alien landscape with all the concomitant emotion of excitement, fear, anticipation, suspicion and dislocation. But hardly the ideal emotions involved in being with your children or them with you. In the end there is emptiness, loneliness and an overwhelming sense of failure and loss. This wasn’t a Dad with his kids. This was an awkward visiting Uncle in false fleeting situations of amity.

A man (like a woman) must be allowed to LIVE with his children where possible, to raise them as he should, and as he desires, in co-operation with his ex-partner. Once what the court deems appropriate orders (orders?) have been made, the man enters the emotional marathon that is trying to retain your sense of family and fatherhood with your children. It may well be that he was the type of person who read his Sunday paper throughout the morning apparently oblivious to anything but what was in front of him. (‘He was never a very good father’.) The children would come in playing some game or other scrambling over him. He continued impassively reading. The children climbed over him and then bugged off.

This was the Dad they knew and loved. Now the Sunday morning papers and the games are gone. Forever. There is no house. There's an embarrassing bedsit or small flat. 'Well they can't stay there can they. It's not suitable. Don't be stupid, there's no space'. The children are embarrassed for their Dad. They don't want to see him down on his luck. They feel somehow guilty, like they're partly to blame. Dad should be in a big house again. Then they'd like to come over. Come over. Like a visit to another person but not a Dad. Dad looks sad in this place; they don't want to see that. He looks like Dad, a little tired, a little crushed, still he looks like him but he doesn't feel like him. There's nothing to do here. It's boring. It's weird Dad playing Monopoly and stuff . . . and drawing and . . . What's going on?

In Battersea Park on Sunday. Watch the single men with the children drag themselves through the false hours in a frantic panic of activity. The build-up. The excitement of being with them. The all-week anticipation. The fear of the pick-up. The coldness. The stranger's voice. The peremptory instructions. The 'have them back at . . .' It's Sunday. You remember the quiet papers and the tumbling bodies about you. The serenity. But they're here and the other thing has gone. Not now the excitement, its not now the couple of hours together, now it's only the 2 hours and 58, 57, 56 etc, minutes left. Time dripping too fast, decaying. Every second measured and weighed in the balance of loss, losing, going away and fading. Everything must be crammed into this space. Life in an hour. Love in a measured fragment of State-permitted time.

Now, oh boy, yeah you're Action Dad! Yessiree kick that ball, push that swing higher than those other Dads. You're much better than them aren't you? Feed them ducks . . . again. Go to that movie . . . in the afternoon? Madame Tussauds, the London Dungeon, the Eye, the Circus, Funfair . . . Hey Johnny every day with Dad is Treat Day. Birthday party time. They've finally forced me into being . . . Hurrah for the State . . . New Model Dad!!!!!!! and maybe if I keep it up they'll let you stay just one night . . . Just one night. 'But don't tell them we'll share the bed like we used to before . . . they think it's different now, they won't like it.' Weird minds. 'It's the best thing that's ever happened to him. He's a much better Father now. He used to do NOTHING before. Nothing'. McDad in McDonalds. Sunday lunchtime. Where else do you go? Contact centres?

Long benches and institutionalised coffee. 'I want to go home Dad'. So do you, but unlike him you can't. You don't have one to go to, remember? What do you talk about? The silences must be filled. So much to say. Your heart bursts with things to say. But shut up. It's too much. Too grown-up. Too heavy. Too burdensome on someone so small. 'How's school?' brightly, cheerily. 'Fine'. 'Great'. 'How's Pete?' 'Pete? Who's Pete?' 'Y'know Pete. Your mate' 'Oh Simon, yeah he's good'. 'Good'. Everything to say, no way or nowhere to say it. Those easy silences, that casual to and fro talking of the past gone. Now there must be subjects to fill in the spaces. And never get angry, or cross or raise your voice or shout . . . it'll be reported. No discipline whatever you do.

'Why, Mum lets me.' 'Yeah well I'm telling you not to.' 'You're not the boss. Mum is' 'You still must do as I tell you.' 'Why?' 'Yeah he's right . . . why? Next week. 'Don't you ever speak to him like that again. Who do you think you are?''¹⁷⁻¹⁹

None of this is working. It is not the best we can do. The law itself is to blame for these consequences of divorce. It is the clumsy, cack-handed law that imposes this life on people. It is not right.

I note in the Lord Chancellor's report, *Making Contact Work*, the desire to create even more layers of State administration, tax money and bureaucracy by creating a network of 'Contact Centres'. Of course this is as nothing to their solution for non-compliance with contact orders. Vast areas of advisors, mediators, consultants and persuaders are to be set up to please ask the 'resident' parent to go on . . . oh, go on, please let him see his kids. Don't be so mean. Don't be so horrible. Pretty please.

It is a cliché that the bureaucrat when confronted with a problem of his own making will seize upon the opportunity to create even further layers of bureaucracy and contribute to the State apparatus even further. As the man said 'It'll end in tiers'—it always does. But that seems to be the sum total of their creativity. That's the big conclusion of the Lord Chancellor's report: in principle everything's ok but could we have more money please to set up lots more levels of interference. Thank you everyone who has contributed. Your comments have been noted and duly ignored.

6. STATUS QUO

Upon separation, the system is slow and delay occurs immediately. This allows the *status quo* to be established. As the process labours on it becomes impossible to alter. This is unfair. It is nearly always possible for the resident parent (let's face it, the girl) to establish a pattern. It is then deemed in the child's interest not to break this routine. But at the cost of losing sight and touch of their father, we must really examine all our assumptions without fear. Then we can move to building a more equitable system benefiting all equally.

Again a presumption of 50-50 rids one of the *status quo* problems.

Equally, 50-50 deals with the non-compliance issue. There would be no need for sanctions under this regime. And no need for the laborious and unjust proposals in the Lord Chancellor's report which is a reductionist brief in a bid to make CAF/CASS into the overarching State implementor of Family Law. Perhaps we should call it KAFKASS. This provides for an interminable round of increasing sanctions to a recalcitrant parent who will not allow access to the child though so ordered. Under the proposed regime it would literally take months and possibly years before the other parent could see his child. At which point he would meet a virtual stranger, possibly poisoned with prejudice (also a problem in the *status quo* issue) against him.¹⁷⁻¹⁹ Why is this permitted?

If the parent cannot see his child because of the refusal of the other parent to allow it in breach of the court order, they should be arrested and jailed. The end.^{12,47}

It is not much different from that other mother who was found to be harming her children by not making them attend school. She went to jail. The children went to school. She says it will never happen again, she was stupid. Previously truanting children around the country, shocked by the visible hand of authority have started showing up again. Try it. Is it any more harmful that someone spends a brief period in jail because she is harming her children by not letting them see their Dad? Or is it less harmful that they never see their Dad?²⁶ Sometimes I also pose this question to you academics and researchers because you are all part of this vast industry. And you are all tinkering.

I know what I've written is a mess. I know it spills from coherent thought into pain and anger. I know it sprawls across assumptions and anecdote and imaginary and real conversations. Had I time I would whittle it all down to your polite, empirical language. The problem is that this issue is bound up with pain that spills its tears across your politesse and renders your language null.

The law is profoundly flawed. When there is absolute wrong it is permissible, indeed imperative to be absolutist in your thinking. Do chuck out the baby with the bath water. (Perhaps an unfortunate expression given the subject matter.) Think fresh. *Tabula rasa*. Clean slate. Blank paper. Re-examine cause and effect, for whatever the cause in the past, it is a different one today.

As we have seen, Society has changed profoundly. Marriage is meaningless because it has no contractually enforceable consequences. Divorce is the same. It should not be a 'one bound and I'm free' construct when there are children involved. In the past people found a different freedom within their own chosen chains of marriage.^{48,50,56,60,61}

Some pressure groups advocate a 'Shared Parenting' presumption at separation (see Buchanan and Hunt, this volume) and cosy up to the Family Law Establishment by saying that this in no way implies an equal time situation, far less a split residence one.

I insist on the latter. There is no harm in being radical when the status quo breeds injustice. I have suggested:

- education in schools that would lead to an understanding of relationships and familial responsibility;
- marriage classes which outline the consequences of a marriage contract (with teeth), and the consequences of having children within that marriage and their impact upon that agreement;
- at separation, and before divorce can be contemplated, a mandatory arbitrator who could insist on staged withdrawal or conciliation before the dispute may be permitted to go to court where due weight would be given to the arbitrator's recommendations, and

—should proceedings move to divorce, a presumption of equal parenting, implying shared responsibility and equal residency, would be assumed even if not acted upon, but from which other formulae that suit the particular couples could emerge, save those arrangements so flagrantly ridiculous that it would not be in the clear best interest of the child.

Currently my proposition has already begun to be assimilated into the mainstream; in Denmark since 2001, more frequently in the US and other places.^{55,56}

I myself fought for it in this country. I had always worked from home. I had money. I took care of the children. I lived beside the school; had ample accommodation; a stable relationship with a woman they knew and liked. My ex-wife worked etc. Why couldn't they be with me 50 per cent of the time? I understand my circumstances were exceptional but I could not and still don't understand why there was so much opposition to this perfectly reasonable request. This is not being naive or disingenuous. Eventually I succeeded but I had to nearly bankrupt myself in the process simply to be able to live with my children. How is that in their interests? Finally I was granted full custody. But I never wanted or asked for that. My ex-wife was not a criminal so why this punitive measure of taking our children from her. If I disagree with it happening to men, equally so with women. I was given full custody because the professionals involved would not agree that split residence was acceptable, despite the urging of the judge in the case who had sat on international benches, making those judgments daily.

Once he asked 'If it works in those countries, why not here?' Answer came there none. What is it with you people? I was granted my children, but this humane man told us should we wish to arrive at something more conducive to us both he would welcome that. 50-50 worked fairly well for us. The only problems in our case were the personal and finally tragic circumstances. In a normal household I cannot see why, after perhaps some initial dislocation, this would not work.

The children are fine now, I'm fine . . . but the things your industry put us through almost destroyed us. My children will remember your unwarranted intrusions and heavy-handedness, save for a few gentle souls we encountered along the way—all professionals—working inside or outside the state apparatus, who were kind and sympathetic. But Lord how I hated you, and what you did to us.

Allow men their dignity. Let them be with their children. The sting is drawn that way. The financial issue is laid aside. Co-operation, if not amity, would be the norm. Issues of power and control and their attendant responses of impotence and hopelessness which fuel the anger and rage are redundant.

Of course it will work for some and not for others. But that's now. When it becomes the social norm—and it will, children will meet their peers who will have the same or expected experience. Just as divorce was shaming for children

in the schoolyard once and is now a commonplace, albeit still painful. Allow men to reclaim their fatherhood and their children.

All the other papers in this book are ignoring this central critical issue. It is tinkering with the already redundant. We have all changed. Think anew.

Right now the agenda around Fatherhood is a modest 'add-on' to initiatives. It is at best a sideshow. But the truth is that only changes in men's lives can generate genuine equality. Fatherhood is now the key to feminism. (Reeves, 2002)

Women changed their circumstance and so must men. By definition their children must too occupy a different world—a different idea of family. For better or worse? Who knows. But the law must as an imperative, recognise it and act. There has been too much destruction. Too much pain.

As I entered court on my first day someone leaned over who felt they were doing me a favour. 'Whatever you do' he said 'for Chrissakes never say you love your children.' Bewildered I replied 'Why not?' The answer was as shocking as it is illustrative 'The court thinks you're being unhealthily extreme if, being a man, you express your love for a child.'

For two years I shut up while I heard the presumptions in favour of a mother's love.

Finally I began articulating the real love that dare not speak its name—that of a father for his child.

No law should stand that serves to stifle this.

ADDENDUM

Fathers and Mothers' Changing Roles

1. 'Feminists point to increased father participation as essential in the realisation of women's equality of opportunity' (Rich, 1971).
2. 'Currently, child care is seen as a women's issue; it is rare indeed to find any commentaries which frame the question within the context of women and men. Perhaps while the question continues to be dismissed as a women's issue that is what will remain' (Russell, 1983, p 219).
3. 'There is a natural expectation that a woman's biological capacity to bear children carries with it an exclusive obligation to actually rear children. However, there is no justifiable reason for the quantum leap between the two functions—parental behaviours such as feeding, protecting, grooming, playing, reading, education, putting to bed, washing and comforting are not sex specific tasks' (Opie, 2002, p 2).
4. 'The idea that motherhood is a holy vocation managed to oppress women by its impossible demands and unwarranted assumptions about femininity; but it also oppressed men by excluding them from the home and consigning them to a life of work, conflict and politics' (Seel, 1987).

5. 'By locking women inside the home, the Victorians effectively locked the men out. Just as women were deprived of experiences relating to production (power, creativity, economic independence, excitement), so men were excluded from experiences relating to reproduction (nurturing, caring, supporting and loving relationships with their children)' (Opie, 2002, p 8).
6. 'Children are universally seen as being owned by women. This leads to a motherhood monopoly of childcare. The father, as a participating parent, is chronically disadvantaged.' (Opie, 2002, p 10).
7. 'There is no evidence for a maternal instinct.' (Opie, 2002, p 11).
8. 'Contrary to the expectations of many, that only fathers would suffer identity problems with reversing roles and would feel threatened by mothers taking over the breadwinning job, the evidence indicates quite clearly that mothers experience considerable difficulty in adjusting to the father being the primary parent.' (Russell, 1987, p 176).
9. 'Mothers felt threatened when fathers were intimate with their children' (New and David, 1985).
10. 'Mothers felt threatened by their husband's participation in the traditionally female domain' (Russell, 1987, p 121).
11. 'The answer [to why women do not want male involvement] may lie in the traditional patterns of female power and privilege. Some women may fear losing their traditional power over home activities if they allow men to relieve them of even part of the home and family work' (Polternick, 1987, p 112).
12. 'Where involvement and responsibility are shared so is the decision-making. A father's involvement in the domestic sphere means that the number of decisions that have to be negotiated greatly increases. Hence, in order to keep to a minimum the child-centred decisions and the inevitable conflicts, the father's participation is restricted by the mother' (Hoffman, 1977, cited in New and David, 1985, p 205).
13. 'It has been suggested that mothers do not want to abdicate any childcare responsibility because by doing so they would place themselves in a less favourable position with regard to custody of the child in the event of a divorce' (Lamb, *et al*, 1987, p 115).
14. 'Fathers are as sensitive and responsive to their young children as mothers are. For example when fathers feed their young babies they respond appropriately when the baby wants to pause or needs to splutter after taking too much milk. They also manage to get as much milk into the baby as mothers do' (Parke, 1981).
15. 'Babies usually bond as easily with their fathers as with their mothers. Many studies have compared the ways in which 1-2 year olds relate to their attachment figures and have found that the closeness of father and baby is almost identical to that of mother and baby' (Lewis, 1982).
16. 'For various reasons, mothers resent active father involvement in child care' (Biller, 1993).

Mothers' Influence over the Father-child Relationship

17. 'Mothers are gatekeepers, capable of enhancing or dampening father-infant attachment' (Braselton and Cremer, 1991).
18. 'If a mother's attitude to the father is negative she may wish the children to reflect the same feelings towards him' (Opie, 2002, p 17).
19. 'In all too many families, children's perceptions of fathers are heavily weighted by information provided by mothers . . . if a mother continually uses derogatory terms in describing the father, the children may come to believe her and begin to withdraw their respect for him' (Biller, 1993 at p 23).

Education and Parenting

20. 'It (the curriculum) regrettably undervalues the father's role to accept that, while the girl is educated to be a mother, the boys do not need preparation for parenting' (Sutherland, 1981).
21. 'Formal education ignores fathering. One researcher found that only 1% of his interviewees had received a school lesson on the subject of fathering. It has been repeatedly found that parenting classes are dominated by female staff and aimed specifically at girls' (Lewis, C, 1986, pp 33-4).
22. 'Most hospitals show mothers how to bathe, dress, change, carry and feed their babies, but these skills were seldom shown to fathers, even though they needed to be taught more than the mothers did' (Lewis, 1983, p 252).
23. 'Mothers must learn to love their babies, to change nappies, bath and feed them. Fathers who try to do these things at visiting time [in hospital] are often discouraged and the idea that they might need to hold their new-born is new. One father was told to stop bonding—"it isn't fair on the mother" ' (New and David, 1985, p 210).

Family Service Professionals' View of Fathers

24. 'Child and family centred professionals perpetuate the ideological division between mothers and fathers by positively underwriting the mother's ownership of the children and negatively marginalizing fathers' (Opie, 2002, p 18).
25. 'Other child care professionals are resistant to father's involvement. In America a survey showed that only 50% of workers in a pre-school program supported fathers' involvement.' (Burgess, 1997).
26. 'It is important to bear in mind that the professional denial of father's role is widespread.' (Rowe *et al*, 1984).

27. 'Social work practice and research has not appreciated the role of the father, he is dealt with as a 'problematic figure' rather than a full partner in social service delivery.' Bolton, 1986).
28. 'By holding negative attitudes to all fathers and thereby ignoring them, child-centred professionals are actually endangering the children they are meant to protect. It may be speculated that this anti-father attitude is created from the combination of two-factors—the ideological elements in training and the current negative image of men in society . . . the whole culture of such professionals needs to be addressed . . . Prejudice against fathers appears to be manifest amongst child-centred professionals, whose attitude and behaviour promote the ideology that mothers should have a monopoly on childcare.' (Opie, 2002, p 22 and IPPR, 2000).
29. 'Fathers are exalted as breadwinner and scorned as parents by a system that relentlessly promotes child care by mothers and role defines the father out of the home' (Opie, 2002, pp 26–28).
30. 'The dominance of women in family services, and the corresponding scarcity of men, is among the most powerful of all the forces which exclude fathers from the lives of their children today for in this we see the outward and visible sign of what begins to be perceived as an essential truth: that in family life, men are an irrelevance at best, and at worst a danger.' (Delaney and Delaney, 1990, p 156).
31. 'There is no legislation or encouragement to introduce male quotas in the female ghettos of child centred occupations, as there has been for females in male ghettos.' (Opie, 2002, p 27).

Some Evidence about the Perpetrators of Child Abuse

32. 'A sample of workers from the Australian Family Services were asked what percentage of fathers abuse their own children. The answer was an astonishing 25%. The actual figure was only 2%.' (Clare, 2000, p 185).
33. 'The biological father is the least likely person to abuse his children and all types of abuse increase significantly when biological fathers are absent from the family.' (Clare, 2000, p 186).
34. '[In] the neglect, physical and sexual abuse cases, [the children] were over twice as likely to be living with their natural mother alone.' (NSPCC, 1988–90).
35. 'In one American study it was found that mothers were the physical aggressors in 62% of the abuse cases that were reported to the child protection services.' (Wright and Leroux, cited in Fillion, 1997, p 233).
36. 'Greater father participation in child rearing is unlikely to lead to more child sexual abuse. Provided that the father is intimately involved from the very beginning, there seems to be a protection from sexual abuse' (Kremer, 1995, p 12).

Policy Implications

37. 'The child support agency . . . clearly indicates to society that the government considers the father's role only as a breadwinner. The agency should link maintenance payments to non-residential father contact with his children, thereby making a public acknowledgement that fathers have a physical presence in their children's lives, a right to be involved parents and not just carry financial responsibility.' (Opie, 2002, p 29).
38. 'The movement for men to be parentally equal at home is as revolutionary as the demand of women to be politically and economically equal outside the home. Indeed it is probably more so because it involves a more fundamental cultural, social, economic and political change . . . It is not surprising that men who seek a fair share of power in the family are incurring as much opposition as women who seek their fair share of power in the market place.' (Opie, 2002, p 31).
39. 'A woman who is denied a job because of her sex can always seek redress and compensation through the numerous Sexual Discrimination Acts. But a father who is denied his child has no legislative support or recompense. He has lost them forever.' (Opie, 2002, p 31).
40. 'We need equality for women and for men—particularly for men because we won't have real equality until men are able to take on their caring responsibilities.' (Mellor, 2000).
41. 'The growth of marital dissolution witnessed in recent decades has imposed increasing costs on the tax payer . . . and imposed a range of extra demands on the welfare state. (Dnes and Rowthorn, 2002, p 2).
42. 'Specialists frequently observe that modern family law creates an incentive structure that encourages opportunism and facilitates interpersonal obligations' (Dnes and Rowthorn, 2002, p 2).
43. 'A badly designed divorce law may undermine the fabric of trust upon which stable marriages depend. If it is badly designed, the law itself may stimulate divorce and contribute to a great deal of human misery.' (Dnes and Rowthorn, 2002, p 2).
44. 'How far was legal reform a causal factor in the growth of divorce? Statistics provide compelling evidence that the liberalisation of divorce law had a permanent impact on divorce rates.' (Dnes and Rowthorn, 2002, p 2).
45. 'The law has a significant effect on divorce rates' (Dnes and Rowthorn citing Zelder, 2002, p 8).
46. 'Much can be claimed for the older reliance on informal social sanctions and the good moral sense of the parties. Our modern need to wrestle with settlement issues may stem from losing this traditional set of checks and loosening the moral value of promise.' (Dnes and Rowthorn citing Cohen, 2002, p 3).

47. 'A failure to enforce quasi-contractual obligations between marriage partners encourages opportunistic behaviour' (Dnes and Rowthorn citing Cohen, 2002, p 3).
48. 'One does not have to be conservative to support legal restrictions on divorce. The legal enforcement of marital commitments is consistent with the legal principles and may enhance the freedom of individuals to pursue their life goals.' (Dnes and Rowthorn citing Scott, 2002, p 4).
49. 'In marriage as in commercial contracts, legal commitment can promote co-operation and protect investment in the relationship to the mutual benefit of the parties concerned.' (Dnes and Rowthorn citing Scott, 2002, p 4).
50. 'Family law reforms since the 1960s have increased the freedom of individuals to leave a marriage, but in so doing they have restricted the freedom of individuals to bind themselves so as to achieve the long term goals they desire.' (Dens and Rowthorn citing Scott, 2002, p 4).
51. 'Amongst the possibilities that would facilitate personal commitment consistent with liberal principles, are mandatory pre-marital and pre-divorce counselling, and mandatory waiting period of 2-3 years before divorce.' (Dnes and Rowthorn citing Scott, 2002, p 4).
52. 'Primary grounds for divorce should be mutual consent. A marriage should be dissolved only if both spouses agree it is a failure.' (Dnes and Rowthorn citing Parkman, 2002, p 5).
53. 'A spouse who wishes to terminate a marriage against the initial desire of the other spouse will have to win the consent of the latter. This suggestion mirrors the standard of specific performance remedy for breach of contract, which obliges a party wishing to be released from a contract to pay full compensation. Bargaining over terms of dissolution might require concessions on such issues as custody, alimony or division of the family assets. Such a provision protects spouses against expropriation of their investments in a marriage, since it deters opportunistic desertion and forces a departing spouse to pay full compensation. But to limit this power, unilateral, penalty-free divorce should be available early in the marriage when there are no children.' (Dnes and Rowthorn citing Parkman, 2002, p 5).
54. 'In the absence of legal penalties, partners may avoid investing in the marriage.' (Dnes and Rowthorn citing Rasmusden, 2002, p 5).
55. 'Louisiana couples can now choose between two types of marriage: the conventional type, which permits easy divorce with few penalties and the new common marriage, in which divorce is obtainable only after substantial delay or on proof of fault. Before entering a covenant marriage, couples must undergo counselling, and they must agree to mandatory counselling in the event of difficulties that threaten the marriage. Moreover a spouse who is guilty of serious misconduct, such as adultery or physical abuse, may be compelled to pay damages in the event of divorce. There may also be damages if the divorce follows a refusal to take

- 'reasonable steps to preserve the marriage including counselling' (Dnes and Rowthorn citing Spat, 2002, p 6).
56. 'The covenant marriage law unites two distinct strands of thought: it is consistent with the liberal notion that individuals should have the right to make binding commitments if they so choose. This choice is denied to them in states that offer liberal, no-fault divorce. At the same time it embodies the communitarian notion that marriage serves important social functions and that marriage law should embody moral principles consistent with these functions.' (Dnes and Rowthorn citing Spat, 2002, p 6).
 57. 'Under the covenant law the primary purpose of counselling is to save marriages, and counsellors are not expected to be neutral with regard to divorce.' (Dnes and Rowthorn citing Spat, 2002, p 6).
 58. 'Marriage law like ordinary contract law, should embody the moral notion of personal responsibility. Fault is no more difficult to establish in the case of divorce than in many other legal contexts.' (Dnes and Rowthorn citing Spat, 2002, p 6).
 59. '... apply normal contractual principles to marriage so that damages would be payable for a unilateral breach of the marriage contract' (Dnes and Rowthorn citing Dnes, 2002, p 7).
 60. 'In Western culture, marriage helps individuals to signal to each other and to the outside world, their desire for a sexually permanent union. However, modern legal and social trends have greatly reduced the credibility of this signal. As a result, marriage is no longer an effective signal of commitment.' (Dnes and Rowthorn citing Rowthorn 2002, p 7).
 61. 'The degree of commitment is still higher, on average, amongst married couples than among cohabiting couples, and marriage is still the best predictor of the durability of a relationship.' (Dnes and Rowthorn citing Rowthorn, 2002, p 7).
 62. 'Insulating women from the adverse consequences of divorce may reinforce incentives for marital dissolution.' (Dnes and Rowthorn citing Smith, 2002, p 9).
 63. 'People may choose to cohabit because marriage law is dysfunctional and offers inadequate protection for spouses who invest in their marriage' (Dnes and Rowthorn citing Dnes, 2002, p 7).
 64. 'Marriage bargaining is . . . a co-operative game in which the outcome is efficient, in the sense that one spouse could not be made better off without making the other worse off' (Dnes and Rowthorn citing Zelder, 2002, p 8).

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