

Redefining Fatherhood

Nancy E Dowd

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As media-fuelled 'gender wars' erupt with predictable regularity and the government pursues its Child Support Legislation Amendment Bill (No 2, 2000) with unrelenting vigour, this book is essential reading for all concerned with fairer outcomes for the men, the women and most of all the children embroiled in family breakdown. Professor Dowd details with passion and rigour the ways in which changing social and cultural mores have destabilised traditional understandings of fatherhood and the failure of both law and policy to take these changes on board and provide and encourage alternatives. While her book is concerned with American, rather than Australian, law, both the social changes and the legal frameworks are familiar to all professionals dealing with the aftermath of family breakdown.

Both her thesis and her approach are as unconventional as they are rigorous and, unsurprisingly, they will anger many. She begins with a description of the grim reality of many fractured families, arguing that 'fathers parent less than mothers' and that 'men's actions generally conform to an unequal rather than a coequal caretaking role. In this model, the secondary caretakers have the power and the money in the relationships and their caretaking is overwhelmingly economic.'

She details the social phenomena with which we are all familiar: the proportion of divorced and single parent fathers who do not pay child support, the gradual severing of father's non-economic links with their children and their failure to nurture. All of this is familiar. It is replayed over and over again in the rhetoric of the father's rights, in our increasing awareness of men's frequent inability to cope with relationship breakdown and self-perception as disposable parents, and in the bitterness felt by many concerning child support payments. She argues that legal understandings of fatherhood mirror these social patterns. In the eyes of the law, fatherhood begins with genetic material and ends with financial provision. Nurture and caregiving are optional extras, becoming critical only for that tiny minority of fathers who, following divorce, seek residence and propose to nurture their children themselves rather than delegate the nurturing role to female kin or new partners.

Professor Dowd explores alternative models of fatherhood. She suggests that, among many subcultures, fatherhood is serial rather than continuous and singular, with men fathering the children with whom they co-reside rather than their biological children, although their role is often legally and socially unsupported. She argues that the legal system gives little support to men who are committed to nurturing their children, instead sending a clear message that economic support rather than ongoing nurturing is their primary role. As she notes:

Given all this, it is not surprising that fathers feel that women and the legal system are their enemies, not their supporters, in their quest to

become nurturing fathers. Fathers sense that what is demanded of them is economic support and their desire to be fathers in any other respect may be tolerated but will not be strongly supported.

While she acknowledges that some — perhaps much — of their rhetoric is ideological, she argues that, in a culture in which the verbs 'to mother' and 'to father' have wholly different social meanings, this is unsurprising.

Yet Professor Dowd is as far from being an uncritical supporter of the fathers' rights movement as she is from providing unqualified support to the arguments of those who might wish to see men's post-divorce parenting limited to the provision of economic support. Instead, she argues that:

While joint custodial arrangements are appropriate as an option, they should not be presumed and should be limited to joint physical custody, which presumably would be based on a coequal parenting history. Equal parenting would mean fifty-fifty, or no more than forty-five-fifty-five, distribution of nurture. Joint legal custody, if not premised on coequal nurture, would be eliminated. Such custody values status over conduct, and replicates the patriarchal model of power without responsibility or social conduct. Thus, joint custody would mean equally nurturing parenting.

Still more significantly, she argues that the law should recognise that social fatherhood is earned, and today, more often than not, earned in co-parenting relationships. To this end, she argues:

Custody norms must include multiple adults who can nurture children, rather than seeing the parental role as limited to no more than two people at any given time. The social fathering by informal or formal stepparents should be supported and recognized by the legal system.

Professor Dowd acknowledges that family law and custodial arrangements are but a tiny corner of the legal system, and only one locus of change. She argues as well for greater attention to equal opportunity for women (and for men) in the workplace, for education that prepares young men and women alike for nurturing parenting and workplace equality. Finally, and most tellingly, she argues for a system of economic support for families that rewards and supports nurture, for the elimination of work-family conflicts through workplace reform and support for carework. She argues — and I believe that she is right — that in ensuring sufficient economic resources to children:

we must follow the children to the nurturers, and support those who nurture. A commitment to the welfare of all children would mean devoting resources based on children and their caretakers, rather than by virtue of biological or marital connections ... To the extent that we impose private economic responsibility, it should be tied to biology or intent, but should not trigger any parental rights in the absence of social fatherhood. Economic responsibility ought to be separated from the

right to presence and access in order to disconnect the notion that children are property and that access can be bought. Economic responsibilities should be independent of nurturing, which should not be seen as a mandated responsibility, but rather as a social good and privilege that should be strongly supported.

The great strength of Professor Dowd's work is her focus on the critical importance of nurturing, and her insistence that what matters is the commitment of individuals, male or female, to their nurturing role. She looks forward to a world in which men and women are equally committed to nurture and equally committed to the provision of economic support. Her carefully argued work recognises clearly that existing workplace and family structures, existing understandings of motherhood and fatherhood and a legal system which both accidentally and deliberately reinforces these structures are collectively responsible for the dilemmas facing family law, in Australia as elsewhere. The increasing bitterness and polarisation of the protagonists, the almost desperate vociferousness of pressure groups, and the ultimate disregard for the welfare of the children are the price we pay for these aspects of our cultural and legal heritage. If, as she acknowledges, the way forward is not always clear, but clouded by struggles to maintain existing forms of power by both men and women, and further complicated by the need to recognise the cultural embeddedness of different models of parenting, the need for change is clear. Legally, however, in Australia as in the United States, the political will required to abandon models emphasising status above conduct and power without responsibility has yet to be found.

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