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Should Parents or the 'Village' Raise Children?

Feminist Fatherphobia in Family Courts

On Father's Day we will again hear paeans of praise about the importance of fathers. We will also hear extra rhetoric from those who argue that we must stop same-sex marriage because children need parents of both sexes, a father and a mother.

But the elephant in the parlor is the millions of children of divorced parents who need their two parents just as much as children in intact marriages, if not more. Maintaining the father's love and authority is crucial when a child's life is turned upside down by divorce. The silence of the pro-family movement and of the churches is deafening. Don't they care about the need for fathers of the more than 21 million children under age 21 who the U.S. Census Bureau reports are living with only one of their parents?

Citing a principle called the "best interest of the child," family courts award sole or primary custody of most children of divorced parents to mothers, thereby reducing fathers to occasional visitation and zero authority.

Remember, the law now allows *unilateral* divorce, and three-fourths of divorces are initiated by wives. The wife doesn't have to allege any fault by the husband, and he has no right to oppose the divorce.

Americans have always assumed that parents share decision-making authority because only parents can determine what is in the best interest of their own children. Chief Justice Warren Burger, writing in 1979 for the majority in *Parham v. J.R.*, stated that ever since Blackstone (who wrote in 1765), the law "has recognized that natural bonds of affection lead parents to act in the best interests of their children."

As recently as 2000, the Supreme Court in *Troxel v. Granville* reaffirmed this principle and upheld the "presumption that fit parents act in the best interests of their children." The *Troxel* case rejected the argument that a judge could supersede a fit parent's judgment about a child's "best interest."

These principles are just as important when parents are separated or divorced, although the Supreme Court has never heard a divorce case. Exploiting this vacuum, family courts have taken away from divorced parents the power to determine the best interest of their own children.

Family courts are the practical application of Hillary Clinton's slogan that "it takes a village (*i.e.*, the government, the schools, the courts) to raise a child." But "best interest of the child" is a totally subjective concept since there is no societal consensus on what is best for every child. Parents make hundreds of decisions, and whether the decision is big (such as which church they attend) or small (such as playing baseball or soccer), there is no objective way to say which is better.

Even if there were some objective way to define "best interest," it would lead to all sorts of undesirable consequences. Should we take children away from poor parents and give them to richer parents who could give them more material goods? Of course not.

Many family court judges are uncomfortable with the awesome responsibility they have assumed, so they look for guidance from psychologists, psychiatrists, counselors, custody evaluators, parenting classes, and social workers. Having an opinion produced by a so-called expert is a ruse to make an arbitrary and subjective judgment appear objective.

A scholarly paper published in *Scientific American Mind* in October 2005 confirms what common sense should tell us, namely, that "it is legally, morally and scientifically wrong to make custody evaluators *de facto* decision makers, which they often are because judges typically accept an evaluator's recommendation. . . . Parents should determine their children's lives after separation, just as when they are married. . . . Parents — not judges or mental health professionals — are the best experts on their own children."

Putting the crucial decision about the custody of children of divorcing parents up to the subjective choice of judges and court-appointed non-parents is a sure prescription for conflict. The ugly, false and acrimonious allegations between spouses, which were supposed to be eliminated by the adoption of so-called no-fault divorce in the 1970s, have simply been transferred to the custody dispute in order to persuade the judge and the non-parent experts to make a favorable ruling.

This system has produced a tremendous divorce-custody-child-support industry, with well-paying work for lawyers and non-parents who pretend to be experts. It's in their financial

interest to minimize the father's custody, visitation and authority so that he will keep paying and paying to win time with his own children.

Every successful civilization has placed the responsibility for rearing the next generation on children's own parents, both mother and father. Replacing that proven practice with the notion that a "village" should raise children, according to non-parents' subjective and misguided notions of what is in a child's "best interest," is a radical departure from the traditional rule that parents should possess shared responsibility for raising their own children.

A law requiring a presumption of *equal shared custody* after divorce would enable children to maintain strong ties with both parents at a time of family disruption. It would also eliminate much of the acrimonious conflict caused when one parent seeks a court ruling for sole or primary custody, because that decision depends on the bias of a judge and the non-parents he appoints to advise him.

Feminist Fatherphobia in Welfare 'Reform'

The Personal Responsibility and Work Opportunity Act of 1996, known as Welfare Reform, has been cheered as a stunning achievement of the Republican Congress and its Contract With America. The law helped to move millions of welfare recipients out of dependency and into productive jobs, but its unintended consequences brought many thousands of "never welfare" families into the welfare bureaucracy.

Financial incentives are often built into tax credits, reductions or bonuses to influence human behavior in home ownership, energy, water, transportation, and waste management. But sometimes the law contains incentives that produce unplanned or unexpected or undesirable results.

The Great Society welfare system is now recognized as a social disaster that created fatherless children, illegitimacy and women's dependency on the government. Channeling taxpayer handouts to mothers provided a powerful financial incentive for fathers to depart; they were not needed any more.

Unfortunately, policy changes in the 1988 and 1996 welfare laws created similar financial incentives for state governments to exclude middle-class fathers from the home. The law incentivized the states to manufacture "non-custodial" fathers and to order money transfers (usually through wage garnishment) to the mothers, thereby putting a large segment of the middle class under the control of welfare bureaucrats.

The major goal of the 1996 Welfare Reform was to reduce the budget deficit by, among other things, recovering welfare costs from absentee fathers. Without justification or public debate, the rules to accomplish this were then applied to middle-class "never welfare" families. Formerly, to receive welfare benefits, recipients had to demonstrate eligibility by "need" (*i.e.*, a test measured by income level), but the new policy omitted income eligibility requirements. Without a means test, a high-income mother with custody can use the power of the state to collect from a low-income father.

The federal government annually provides over $4 billion in block grants to states to serve as collection agencies. States are reimbursed for 66% of their costs of child support enforcement activities, 80% of their costs for technology, and 66% of their costs of DNA testing for paternity.

The more cases the states can create and the more operational expenses they incur, the more federal funding states receive to expand their welfare bureaucracy. No performance standards are required to get this money and, in addition, the feds provide a bonus fund ($458,000,000 in Fiscal 2006) for which the states compete.

In the welfare class, most absentee fathers are unemployed or working for wages so low that little or no money can be squeezed out of them. State bureaucrats discovered they could cash in on the pot of federal money by exploiting middle-class divorce and creating a whole new class of non-custodial fathers who have good jobs and are willingly making payments to their ex-wives.

When a married couple with children is divorced, the family court typically retitles the husband and wife as *noncustodial* and *custodial* parents. The more time with the children that is awarded to the custodial parent, the more money the non-custodial parent is ordered to pay and then can be reported by the state as collections that merit federal bonuses.

Federal funding thus provides powerful monetary incentives for states to maximize the number of single-parent households with high transfer payments, and to minimize equal child custody which would lessen transfer payments. Depriving or reducing children's access to one parent is thus a source of revenue for the states.

These incentives drive family-court discretion and skew the opinions of the vast army of lawyers, psychologists, custody evaluators, and parenting counselors who are used to rationalize the process. They hide their predetermined custody rulings under the slogan "the best interest of the child."

Put another way, forcibly depriving children of access to one parent, usually the father because he usually has a higher income than the mother, is a big source of revenue to the states. The more support orders that are issued, the higher they are, and the more fathers who are threatened with jail and suspension of their driver's and professional licenses for challenging the system, the better chance a state will receive more money from the feds.

This result was accurately predicted by Leslie L. Frye, chief of Child Support for the California Department of Social Services. In testifying to the Human Resources Subcommittee of the House Ways and Means Committee on March 20, 1997, Frye said the new regulations "encouraged states to recruit middle class families, never dependent on public assistance and never likely to be so, into their programs in order to

maximize federal child support incentives."

Of the 40% of American children now growing up in homes without their own father, a few are victims of the stereotypical deadbeat dad. But most are victims of disastrous federal policies that provided incentives to create female-headed households, first by the Democrats' welfare system and then by the Republicans' so-called welfare reform.

Many consciences should be burdened with the realization that taxpayers' money provides financial incentives to deprive millions of children of their own fathers.

Feminist Fatherphobia & Domestic Violence

The reauthorization of the Violence Against Women Act (VAWA) was signed by President Bush in January 2006 without any public debate. VAWA is a billion-dollar-a-year extension of one of the major ways that Bill Clinton bought the support of the radical feminists.

Passage of VAWA was a major priority of feminist organizations and of the American Bar Association (ABA) for whose members it is a cash cow. More than 300 courts have implemented specialized docket processes to address VAWA-type cases, more than a million women have obtained protection orders from the courts, and more than 660 new state laws pertaining to domestic violence have been passed, all of which produce profitable work for lawyers.

An ABA document called "Tool for Attorneys" provides lawyers with a list of suggestive questions to encourage their clients to make domestic-violence charges. Knowing that a woman can get a restraining order against the father of her children in an *ex parte* proceeding without any evidence, and that she will never be punished for lying, domestic-violence accusations are a major tactic for securing sole child custody.

Voluminous documentation to dispel the feminist myths that created and have perpetuated VAWA are spelled out in a series of reports issued by an organization called RADAR (Respecting Accuracy in Domestic Abuse Reporting), and in an 80-page report called "Family Violence in America" published by the American Coalition for Fathers & Children.

It is a shocker to discover that acts don't have to be violent to be punished under the definition of domestic violence. Name-calling, put-downs, shouting, negative looks or gestures, ignoring opinions, or constant criticizing can all be legally labeled domestic violence. The ABA report states: "Domestic violence does not necessarily involve physical violence." The feminists' mantra is, "You don't have to be beaten to be abused."

VAWA advocates assert that domestic violence is a crime, yet family courts adjudicate domestic violence as a civil (not a criminal) matter. This enables courts to deny the accused all Bill of Rights and due process protections which are granted to the most heinous of criminals.

Specifically, the accused is not innocent until proven guilty but is presumed guilty, and he doesn't have to be convicted "beyond a reasonable doubt." Due process rights, such as trial by jury and the right of free counsel to poor defendants, are regularly denied, and false accusations are not covered by perjury law. VAWA provides funding for legal representation for accusers but not for defendants.

Every time a judge issues a restraining order, the judge creates new crimes for which an individual can be arrested and jailed without trial for doing what no statute prohibits and what anyone else may lawfully do. This criminalizing of ordinary private behavior and incarceration without due process follows classic police-state practices. Evidence is irrelevant, hearsay is admissible, defendants have no right to confront their accusers, and forced confessions are a common feature.

Some of these injustices result from overzealous law enforcement officials (sometimes running for office), and some from timid judges who grant restraining orders and deny due process to defendants for fear of being blamed for subsequent violence. Most of this, however, is the result of feminist activism and the taxpayers' money.

The ease and the speed with which women can get restraining orders without fear of punishment for lying indicates that the dynamic driving domestic-violence accusations is child custody rather than violence. Restraining orders don't prevent violence, but they do have the immediate effect of separating fathers from their children and imprisoning fathers for acts that are perfectly legal if done by anyone else (such as attending a public event at which his child is performing).

The restraining order issued against TV talk show host David Letterman to protect a woman who claimed he was harassing her through his TV broadcasts is a good example of how easy it is to get a court order based on false allegations.

VAWA money is used by anti-male feminists to train judges, prosecutors and the police in the feminist myths that domestic violence is a contagious epidemic, and that men are naturally batterers and women are naturally victims. The feminists lobby state legislators to pass must-arrest and must-prosecute laws even when the police don't observe any crime and can't produce a witness to testify about an alleged crime.

Assault and battery are crimes in every state and should be prosecuted. But persons so accused should be entitled to their constitutional rights. After all, is this America?

ABA Joins Feminists' War On Fathers

The American Bar Association (ABA) is a special-interest group like any other association representing its members. The ABA represents lawyers who seek to win their cases, especially if they are profitable and result in verdicts that order transfers of money. We can therefore assume that ABA publications are not disinterested research, but are meant to promote the litigating and financial interests of lawyers.

A good example of a special-interest publication is called "10 Myths About Custody and Domestic Violence and How

to Counter Them," which was produced "for use in litigation" by an ABA subgroup called the "Commission on Domestic Violence." "10 Myths" is designed to teach lawyers how to win money verdicts against fathers by using false or misleading arguments masquerading as objective research. The same techniques can theoretically be used against mothers, but fathers are the chief targets because they more frequently have more financial resources than mothers. Litigation is often stimulated by the search for deep pockets.

The "Commission's" website notes this disclaimer: "The ABA Commission on Domestic Violence does not engage in research, and cannot vouch for the quality or accuracy of any of the data excerpted here." Too bad the "10 Myths" flier doesn't include this disclaimer, too, because most of it lacks both quality and accuracy.

The organization called Respecting Accuracy in Domestic Abuse Reporting (RADAR) has just published a detailed analysis of "10 Myths." (www.eagleforum.org/sources) RADAR's report proves that "10 Myths" uses bogus statistics and is "profoundly and systematically biased ... unworthy to be used as a foundation for legal practice or public policy."

"10 Myths" denies the big problem that false allegations of domestic violence and child abuse are frequently used by women to win child custody, and that children can be coached to betray their fathers. "10 Myths" ignores the problem that family courts regularly deny custody and issue restraining orders against men based on a woman's unsubstantiated say-so and without giving the man fundamental due process rights.

RADAR shows that "10 Myths" sells the feminist falsehoods that only fathers engage in domestic violence and child abuse. "10 Myths" consistently selects language to portray fathers negatively.

Biden Wants More Funding for Feminists

The radical feminists' good buddy, Senator Joseph Biden (D-DE), has devised two major schemes to enable the feminists and the lawyers to cash in on a flow of taxpayers' money in a big way. Not satisfied with the $1 billion a year flowing into feminist coffers through the Violence Against Women Act (VAWA), Biden is sponsoring a bill called I-VAWA (International Violence Against Women Act, S. 2279).

I-VAWA earmarks at least 10% of its program funds to be granted to a certain type of women's organizations. Biden's press release identifies the favored groups: N.O.W.'s Legal Momentum, Family Violence Prevention Fund, Women's Edge Coalition, and Center for Women's Global Leadership.

I-VAWA would create a new Office of Women's Global Initiatives that would control all foreign domestic-violence programs and funds in the Departments of State, Justice, Labor, Health and Human Services, and Homeland Security.

Senator Biden has also rushed to the aid of women who want free lawyers to help them make domestic violence accusations, and of lawyers seeking income from those cases. He is the lead sponsor of an extravagant new boondoggle called the National Domestic Violence Volunteer Attorney Network Act (S.1515).

Biden's bill would give $2 million a year to the ABA "Commission" that wrote "10 Myths" in order to create a National Domestic Violence Volunteer Attorney Network Referral Project. Biden even wants the taxpayers to pay the lawyers' student loans.

Biden's bill will channel an estimated $55.5 million of taxpayers' money to lawyers, and the special-interest ABA "Commission" will be in the catbird seat. The bill will authorize federal funding to create and maintain an electronic network, provide mentoring, training and other assistance, and set up a legal coordinator's office in each state to match lawyers to victims. Biden's bill will give a half-million dollars to the National Domestic Violence Hotline to train feminists in coordination with the ABA project.

The Biden bill will give a $75,000 grant to each of five states to create a pilot program to implement the network in coordination with the ABA "Commission." After the five states get into operation, the bill will roll out the program nationally with annual appropriations of $8 million.

All this "domestic violence" legislation is based on the feminist myths that men are naturally batterers, that women are naturally victims of an oppressive patriarchal society, and that women's accusations should be believed regardless of evidence. Courts should have learned the lesson from the infamous Duke Lacrosse rape case that accusations-without-evidence should not be allowed to destroy innocent men's lives.

Dr. Stephen Baskerville's landmark book, *Taken into Custody: The War Against Fathers, Marriage, and the Family*, poignantly describes how attorneys advise divorced wives seeking child custody to accuse the father of abuse and obtain a restraining order barring him from the family home, knowing that she will never be punished for false accusations.

Taken into Custody provides a copiously documented description of society's injustices to children who have been deprived of their fathers and of fathers who have been deprived of their children. His book is must reading on how family courts and taxpayers' money are promoting divorce, cheating fathers, and imposing incredible harm on children.

It's time for real men to stand up against this sexist nonsense and, for the sake of children, give fathers their rights of fatherhood and of due process.

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