

## THE DISENFRANCHISED FATHER

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Divorce is one of life's greatest traumas. It is a process—not an event—that begins much earlier and continues years after the granting of the decree. It is especially painful when children are involved—often an emotional, social, and economic disaster for all concerned.

The "American/Canadian way of divorce" (mother gets "custody"; father gets "visitation" and financial child support obligation) is based on outmoded, erroneous, and damaging concepts concerning men's and women's parenting roles, abilities, and parent-child relationships.<sup>2</sup> As such, it serves primarily to prolong and intensify the suffering and thereby to inflict great emotional harm on our children.

Today, while we rightly address the problems of single mothers and "their" children, we ignore the plight of the "other" parent. We assume, as Robert Bork did, that the other parent is really no longer a parent. Implicit in this damaging myth is that noncustodial parents want it that way.

As a society, we must come to grips with the obvious social reality that parental integrity begets parental responsibility, while parental *disenfranchisement* quite logically begets parental despair, dysfunction, and even *disappearance*. This tragic symptom triad constitutes the "destroyed father syndrome," a rampant and terrible psychosocial affliction that is treatable and, more importantly, preventable. As with all "diseases," a thorough understanding of its etiology is essential before fruitful efforts at treatment (and prevention) can reasonably be expected.

The destroyed parent syndrome is not a disease peculiar to males. It is a human problem, seen frequently in mothers, too, when parental destruction is their lot.<sup>3</sup>

As for the plight of single mothers and "their" children, we fail to acknowledge that "their" children are also his children, and that these children suffer as much, or more, from the loss of their father as they do from a diminution of family income. I have seen the psychological carnage, and it is the lack of a *parent*, not lack of food or shoes, from which they primarily and most severely suffer. While we decry the "feminization of poverty," we ignore the "pediatrization of father loss" and the "masculinization of child loss" and ignorantly picture the fathers who have lost their children and parenthood as miserable, selfish, non-caring oafs.

While society has finally acknowledged that women are more than "baby machines" and are deserving of equal economic opportunity (whether or not they are earning money), it refuses to recognize that men are more than "working machines" and are concomitantly deserving of equal *domestic/parenting* opportunity (whether or not they are doing much, or as much, child care). Women can hold important and stressful jobs, and men can render loving and nurturing care to babies, and these tasks can be accomplished before, within, or after marriage, as circumstances permit.<sup>4</sup> Fathers need and want to parent (not visit) their children, just as mothers do.<sup>5</sup> Children need and want nurturing, not visiting, from both their parents.<sup>6</sup>

### **Fathers need and want to parent (not visit) their children, just as mothers do.**

Why are "absent" fathers absent? Why are "deadbeat" fathers dead? Are they as callous as presented, or were they "killed" first and then accused of being dead?

The destruction of fathers and fatherhood occurs routinely, albeit subtly and unconsciously,<sup>7</sup> after divorce or an out of wedlock pregnancy, and the damage to children resulting from these situations may be lifelong.<sup>8</sup> How and when does this happen? How can we prevent this appalling and destructive psychosocial process?

I will address these questions subsequently, and propose courses of action which would be of long-term benefit to children presently or soon to be facing the catastrophic consequences of postdivorce parent loss.

## STAGE 1:

### THE SEEDS OF PARENTAL DESTRUCTION

#### **A father is a biologic necessity but a social accident.<sup>9</sup>**

Today's young men and young fathers (as well as their female counterparts) are overtly and covertly daily saturated with sexist and erroneous messages that women are loving, nurturing, and *inherently* knowledgeable and in control with infants and small children, whereas men, are non-caring, ignorant, helpless, and scared. Print media, religious publications, and the advertising industry convey that message, and they do it with regularity.

The Robitussin/Dr. Mom commercials recently seen on national television convey the clear message that mothers are concerned with, and in charge of, their children's illnesses, and that fathers want it that way.

I find the comment in a baby care instruction publication by a major and reputable infant formula company, relative to father's potential participation in the bathing of his baby, to be uniquely and particularly repugnant

#### **Babies are so intrigued by the water and getting clean makes them feel so good that chances are he'll want to help. As long as he follows the same safety measures you do, there's no reason why he shouldn't.**

The message is clear that a baby *in distress*, or displeased, or irritable, or with dirty diapers, would clearly be beyond the capabilities and desires of a father and clearly calls for a mother's guidance and care. Again, the "oaf" image is paramount

These messages —constant, consistent, and persuasive—are not challenged nor are they ignored by the great majority of fathers (or mothers) of young children. They represent a part of a continuum of messages that have been sent ever since they were children (mothers *love*, fathers work and support; mothers *nurture*, fathers discipline and support mother's ideas; there is nothing like a mother's love) and that they have both come to accept as natural and "right." These messages are sexist and damaging—as much so as those that tell us that women can't make it in stressful, high-responsibility jobs. Society is rightly challenging the latter. Incredibly, it continues to vigorously embrace the former message, to the continuing detriment of the children, mothers, and fathers whom it affects

What practicing pediatrician has not seen a loving father, holding his baby in the waiting room, nurturing her, perhaps feeding or changing her, who on entering the examination room immediately lays the baby down and then steps back so that mother can stand next to the infant, in the "primary parent" posture, so as not to embarrass or demean her or her "motherhood"?

Many young fathers have admitted to being *embarrassed* by the intense love and feelings they have for their babies. Some men take this embarrassment and pressure a bit farther and defer liberally to mothers some of the infant care they would even like to do.<sup>10</sup> Many young mothers, threatened by a husband who cares "too much" for his baby, actually encourage the father to take a back seat. Infant care is their job, and a reflection of their identity as mothers. A father who is too involved threatens that identity.

There thus develops a covert partnership in primary care assignments to the social and parental "advantage" of, and for the perceived psychological benefit of, the young mother,<sup>11</sup> who in the beginning may be just as scared or ignorant as the father regarding her baby's care needs.

Father represses his "abnormal" desires to render intimate or "primary" care to his infant and either avoids this care entirely or performs it in a limited and "pinch-hitting" manner only.<sup>12</sup> Children are simply presumed by all to need care from mothers to the exclusion or minimization of fathers.

Father's role, as vividly illustrated in advertisements nationally distributed in news magazines and on television, is defined as that of breadwinner and lifelong provider.

Given these overwhelming premarital and post-marital pressures to defer to mother's love and care, and sublimate one's own, it is more easily understood why many men so willingly, even actively, not only seek the role of "primary breadwinner" but also defer (to varying extents) to mother the primary care and "nurturing" role. While they are at work and planning financial futures and security for their family, mother becomes for these fathers an "extension of

themselves"<sup>13</sup> and their parenting/nurturing function.

I deplore (though I understand) this psychodynamic phenomenon, and I counsel vigorously against it in my contacts with young couples; nevertheless, it happens often, to greatly varying extents.

Some working fathers still do lots of primary care when they are home.<sup>14</sup> Many do substantial care, except when others (e.g., in-laws) are around (to protect mother's primary parent image). Almost all do much more of the physical play, roughhousing, etc., with the children, than does mother.<sup>15</sup>

Paradoxically, and sadly, the legal system (when marital separation occurs) routinely deduces from this situation that father cares little (or at least less) for his children, and they for him, than mother and interprets his wishes for substantial post-separation time and autonomy with his children (post-separation) as hypocritical (see Stage 2)<sup>16</sup>

After marital difficulties are recognized and discussions of separation occur, father often hears from mother that "she'll let you see her almost any time you want." Usually, this statement is accepted, even *appreciated*, by the father, who does not recognize that mother has, almost "naturally," assumed custody before even discussing it and has usurped the power to decide on "letting" (and by implication the power *not* to let) father see his children. Also strongly implied is the nature of the contact between father and child after separation. He will "see" or "visit" his child—not parent the child.

**It is usually the youngest fathers or those with the youngest children who have acceded to the stereotypical behavior discussed here.**

That (parenting) is a mother's job, as per a now recognized agreement by default made after baby's birth (sometimes before that) and born of a desire to properly honor and "support" mother's parenthood, rather than a desire to avoid work or contact with the baby.<sup>17</sup>

It is usually the youngest fathers or those with the youngest children who have acceded to the stereotypical behavior discussed here. They, along with their children, stand in the greatest jeopardy.<sup>18</sup> The fathers face the indescribable pain of child loss and parenthood loss. Their children face the lifelong psychological damage and pain of "parentectomy"<sup>19</sup>

Truly, these fathers' fate as parents often rests squarely in the hands of their spouses. They are to be parents, or "visitors," or excluded entirely on the basis of mother's good will or lack thereof.<sup>20</sup>

## **STAGE 2: THE PHYSICAL SEPARATION AND EARLY SEPARATION PERIOD (APPROXIMATELY 4 MONTHS)**

**Except in rare cases the father should not have the custody of the minor children of the parties. He is usually unqualified psychologically and emotionally; nor does he have time and care to supervise the children. A lawyer not only does an injustice to himself but he is unfair to his client, the state and to society if he gives any encouragement to the father that he should have custody of the children.**<sup>21</sup>

The decision to separate from a spouse is usually not arrived at lightly or quickly. Postdivorce events are generally perceived as less painful and fairer when such a decision is "mutual and has been discussed rationally. Often, however, this does not occur. Most commonly, one parent (almost always the father) leaves the marital residence, often by "tradition," request, threat of a court order, or even after legal advice to do so.<sup>22</sup> If a spouse (in practical fact, read *father*) refuses to leave and can't be ordered out, the next most likely occurrence is that the "other spouse" leaves the residence with the children, often without the father's knowledge or consent.

**If anyone even says "they're his children, too," it is in the context of a discussion of his financial support obligations.**

Women are the initiating party in 70 to 80 percent of all divorces filed in this country. This has stimulated many comments and assumptions, the most common of which is that men are at fault most of the time and that, despite financial hardships that often befall single mothers, these women are courageous enough and have suffered enough to go through with it. In this author's view, a more rational explanation is that most divorcing persons are decent human beings who share fault and that men do not initiate proceedings for fear of losing their children. This pervasive and valid fear of loss of one's children and parenthood is not experienced by nor appreciated by mothers facing divorce.<sup>23</sup>

Fear of poverty, or at least of a severe diminution of income, is also present and valid, but it is valid for both parties and their children after separation. Society in general, however, and the media in particular, limit their perception and their concern to women and "their" families.

One major and widely quoted source,<sup>24</sup> with data obtained from a rather narrow (and older) socioeconomic group of families, purports to show that mothers' postdivorce *income* does go down substantially after separation (it does) while fathers' *standard of living* goes way up (it doesn't).<sup>25</sup> Although this unique comparison of apples versus oranges has been severely criticized<sup>26</sup> it nevertheless has achieved the status of a battle cry for those interested exclusively in women's rights.

The rights of a child to his father and those of a father to his child are ignored or at least subjugated to the perceived right of the other parent to total custody and control of the child's life and to the financial resources (alimony and child support payments, medical expenses, sometimes mortgage payments) with which to implement and maintain same.

Fathers and their families are not considered to be relevant now, except as sources of relief and help for women and "their" families. Fathers' families are deemed no longer to exist. They (fathers) will be "visitors" now.

Indeed, if anyone even says "they're his children, too," it is in the context of a discussion of his financial support obligations. His nurturing/parenting abilities (present or potential) and his desires not to mention the desires and needs of his children for him, are largely ignored.<sup>27</sup>

Later, when she gets a chance, mother will assess those desires and needs, and if she deems them worthy of some consideration, will dispense time ("visits") accordingly. It will, in effect, be up to her.<sup>28</sup>

Many women now inform their spouses (as earlier discussed) that "you can come over and see her as much as you want. I'll always let you do that." Others—assuming no more power, but using it in a more negative way—will direct that "You can see Mary any time, but the baby is still too young for you," or that "If you support us, and you start being nice, I'll let you see them." Still other mothers deny access completely for any number of bizarre reasons or for no reason other than vindictiveness.

When father consults a lawyer (which, unfortunately, is often only *after* he leaves his home) and relates the aforementioned conversations, he will often be advised to "be amicable, keep calm, stay away from the children for a while. She will probably let you see the kids when she calms down. Remember that she is very upset now."

The fact that children's psychological needs for loving contact with both parents should *immediately*, not three months later, dictate frequent contact with dad right now<sup>29</sup> regardless of mother's anger, state of being upset, or vindictiveness is not often conveyed to the client. The power to "let" should be immediately exposed as coincident with the power to prohibit and should *not* be granted.

Father should be assertively and frequently *parenting* the children, as should mother.<sup>30</sup> Neither should ever usurp or be granted the power to "let" the other have access to the children. Neither should ever "visit" the children.

The overriding concern of postdivorce fathers, as Jacobs emphasizes,<sup>31</sup> is their continuing contact with and relationship with their children (i.e., their integrity as parents).

However, at the early post-separation stage, many men are lulled by their wives' or their lawyers' comments to the effect that they will "see" their children a lot. It is only later that the brevity, artificiality, and uncertainty of the "visits" convince them (rightly) that their very parenthood is in jeopardy and that their children will suffer grievously as a result.<sup>32</sup>

Lulled as they are, many fathers begin discussing other issues, such as financial child support, occupancy or sale of the family residence, and division of property and financial assets.

Per their lawyers' reassuring comments, and due to the subtle psychosocial factors discussed in Stage 1, men usually do not worry about or consider "custody" at this stage.<sup>33</sup>

He'll "see" his children a lot (or so he thinks). He doesn't want to take the kids away from their mother.<sup>34</sup> Leaving the kids with their mother is the right thing to do.

Full custody, or shared custody, of the children was probably not even discussed during the first visit with his lawyer (many lawyers do not bring it up, and assume that their male clients, if they don't bring it up, don't want their kids).<sup>35</sup>

If father is feeling great pain and missing his children to the point of tears, he will usually keep that to himself and consider these emotions to be inappropriate or a sign of weakness. Babies and toddlers especially "belong to mothers."

Note that, at all times, talk of custody (or shared custody) for the father, if it takes place, be couched in terms of "taking the kids away from their *father*"—certainly a pejorative and guilt-inducing term when a father hears it. But taking the kids away from father is never referred to as "taking the kids away from their mother."<sup>36</sup> ("Leave your house. Stay away for awhile to let the kids settle into the new situation. Send some money right away. She'll probably calm down and let you see them in just a few weeks.")

According to this logic, fathers don't "own" kids. Mothers do. Kids don't need fathers (much if at all) after divorce. Kids need mothers.....

If a father is assertive and knowledgeable enough to ask his attorney about custody or shared custody and his wife is a "normal" person (with no gross parenting deficit) who wants to "keep" her children, he is usually assertively advised not to waste his money. He may be (correctly) advised that good and decent mothers almost never lose full custody and, in most states,<sup>37</sup> do not have to share physical custody if they don't want to, no matter how good or loved or nurturing a father has been. Often, the advice continues that "Besides, if you petition for custody, you will cause her to be upset, and she will probably make it tough on you to see the kids after you lose. Be cooperative, leave her and the kids in the house, and I'll try to get the most liberal visitation for you."

Although more fathers today are being awarded "joint custody," many of these situations involve joint "legal" custody.<sup>38</sup> This is a nebulous and variably defined term that often provides fathers with no more parenting time with their children than the more conventional sole custody agreements (i.e., 36 hours every other weekend for older children, 8 hours on Sunday for 2 to 5 year olds, and almost nothing for infants).

Even in those unusual instances in which gross maternal deficits exist (e.g., florid drug or alcohol abuse, serious mental illness, previously demonstrated child abuse or neglect) and father brings this to his attorney's attention, he is often still advised as previously cited, even though his chances of being permitted to continue in a parental role (i.e., retain "custody") are now much better.

Damaging and invalid preconceptions, so long erroneously held (Stage 1), cause and blend nicely and logically with the terrible legal and psychological positions taken (Stage 2) to produce a father who, though he loves his children and parents them well, is persuaded and convinced that by leaving his home and "not taking the kids from their mother" he is taking the right and best course for his children's future.<sup>39</sup>

**If father is feeling great pain and missing his children to the point of tears he will usually keep that to himself and consider these emotions to be inappropriate or a sign of weakness.**

The fact that she has "taken the kids from their father" is not presented to him as equally disastrous (as mother deprivation) for his children, as well as disastrous for himself.

The "gut" feeling that he is losing his children (and his parenthood) is sublimated and denied—and, if expressed, is "corrected" by all those around him (often family and friends as well as his attorney) who have contributed to the disastrous decision he has made.

In fact, his instincts are usually correct. When visitation begins, parenthood frequently ends.

### **STAGE 3: POST-SEPARATION: PROGRESSION TO THE WRITTEN SEPARATION AGREEMENT (4 TO 12 MONTHS)**

**Courts know that mother love is a dominant trait in the heart of the mother, even in the weakest of women. It is of Divine Origin and in nearly all cases, far exceeds and surpasses all parental affection of the father. Every just man recognizes the fact that minor children need the constant bestowal of the mother's care and love.<sup>40</sup>**

As the recently separated father discovers very quickly, the prospects for a continued meaningful relationship with his children are grim indeed. Such a relationship, especially with younger children, will be subject to mother's "approval and permission."<sup>41</sup> Sadly, few mothers, dealing with feelings of vulnerability, anger, and guilt, are willing freely to grant such permission.<sup>42</sup> This autonomy (power) over their children's contacts with the father, often in tandem with revenge for real or perceived misdeeds, is one of the few compensating or "positive" emotions they may be experiencing at this time.

The inappropriateness of permitting this power to rest in the hands of *either* of these two ego-smashed and stressed individuals, and the disaster created by its exercise, seems blissfully beyond the comprehension of the very professionals and officials whose charge it is to strive for the "best interests of the child."<sup>43</sup>

Thus, while father is also buffeted with feelings of grief, loss, anger, and failure, he experiences increasing desperation as he now begins to appreciate the depth of the gulf (physical and psychological) that now exists and is widening between him and his children.

The ongoing catastrophe that has befallen his children seems beyond his control or ability to change, reverse, or even mitigate. Although no one told him this earlier, he now sees (accurately) that his custodial and parental "bridges" *have* been burned.

While he cries at night for his children and parenthood, he finds his productive hours involved with more mundane concerns.

1. He must continue working and his productivity must continue as before. No one, not relatives, friends, nor even his own lawyer, seems to have any appreciation of the loss he has suffered and to which he is trying to adjust.<sup>44</sup> In contrast to a death and its attendant grief, there is no funeral, no finality, no rushing to his side to offer condolences. The normal grief process is denied him. Not only is there no time off from work, there are usually severe financial burdens that dictate working overtime

Tears, disorientation, anger, yearning for one's children—those emotions are "inappropriate." They are "normal" perhaps for a *mother* who is without her children and who, suffering similarly, would be granted assertive sympathy and emotional support.

**The ongoing catastrophe that has befallen his children seems beyond his control or ability to change, reverse, or even mitigate.**

2. Division of family property is a significant issue and, despite the distress, is usually decided at this time. Often very bad decisions as to who gets what are made on the basis of guilt feelings or on the basis that "the kids need these," always assuming and forcefully bringing home the repugnant concept that "the children live here, and you are not really connected to them anymore." The children, it will be said, need "stability," and this will be defined as "same house and *sole custody with the mother*"<sup>45</sup> This outmoded concept flies in the face of an abundance of studies that indicate that the prime issue, for postdivorce *stability* and mental health for children, is continued close, frequent, and meaningful interaction with *both* parents.<sup>46</sup>

The issue for the children is "Where's Daddy?" "Why doesn't he see us anymore?" "Why can't we go to his house?"<sup>47</sup> Often, in preverbal children, or in children for whom these questions are not adequately addressed (or who are afraid to ask them), the consequences of father loss are demonstrable daily in various forms of regression or misbehavior.

3. "Visitation"<sup>48</sup> arrangements are also being discussed. Most fathers having acquiesced to the legal advice (previously mentioned) to leave home and "stay away until things settle down," are finding that reestablishing a meaningful pattern of contact with their children is difficult at best<sup>49</sup> (i.e., with maternal cooperation) and impossible at worst (i.e., with denial of access or abridgment/orchestration of time granted).<sup>50</sup>

The aforementioned advice was, in fact, psychologically and legally disastrous for his children as well as for himself, for the children will never get used to the loss of a parent, especially when the absence of that parent is perceived or conveyed to the children as volitional.<sup>51</sup> Also, the apparent assertive absence from parenting over the past few months, in addition to the "abandoning" of the domicile, will be considered solid evidence that father really doesn't care that much, and that his subsequent requests for more substantial "visitation" with his children are not genuine.<sup>52</sup>

The amount of "visitation" in the final separation agreement is almost always totally inadequate: 8 hours per week for

children aged 2 to 5, and a 36 to 48-hour "weekend" every 14 days for older children (visits with toddlers are incredibly brief, and with infants time is usually not granted at all). And all this assumes that the visits are permitted. Worse yet, many agreements (perhaps half) merely arrange for visitation as "mutually agreed upon by the parties," which means, in effect, that mother has total veto power over all proposed father-child contact.<sup>53</sup>

4. From the time of his absence from the home, he must provide child support for his children, defined always as *financial* support. The father's needs and abilities and the *children's* intense needs and desires for his emotional and psychological "child support" are ignored or denied when "child support" is discussed.<sup>54</sup>

Many poor and marginal income fathers find that a small studio apartment, single room, or residence with their parents is all they can afford. From this financial fact of life will frequently arise claims that overnight "visitation" with the father is inappropriate or harmful because of his inadequate sleeping arrangements for his children, especially if they are "too young."<sup>55</sup> (Too young for a father to be deemed capable is usually under 5.)

5. He must pay substantial legal fees for himself and at the end of negotiations usually finds that he is adjudged responsible for payment of 50 percent or more of his wife's attorney's fees. This may be ordered even despite an agreement in which the spouses divide financial and material assets equally. Father's greater income is usually used to rationalize these decisions, but father's substantial start-up costs in 'setting up his new domicile, and father's tax and (after-tax) support obligations are usually ignored in this determination. In truth, the concept of the dependent, helpless female, victimized by the all-powerful male, is the overriding force behind most of these counsel fee determinations.

Now, with separation agreement in hand, with bills perhaps paid, and with visitation apparently "settled," many fathers, although still grieving, will attempt to reconstruct their lives, pick up the flotsam and jetsam remaining from their former relationship to their children, and try, bravely, to "get it back together" with them.<sup>56</sup>

Wallerstein and Kelly,<sup>57</sup> and others, however, demonstrate assertively that large numbers of post separation children are denied their decreed (and deserved) access to their fathers on many occasions, often with cold and calculating regularity. The reasons are often frivolous and ridiculous and are usually misstated. The motives are more often those of power and revenge.

Truly, the question "Why are absent fathers absent?" is better replaced by the question "How do so many persist, and hold on, despite societal, judicial, and custodial parent pressure to give up and disappear?" In fact, a large number—perhaps 60 percent—of fathers who are (functionally or in fact) eliminated or "absent" after separation have "disappeared" by now. The courageous and committed (and/or lucky) others who have remained committed, loved, and loving, sometimes, despite incredible odds, may still have a heady battle ahead.

#### STAGE 4: TO THE DIVORCE AND BEYOND

**You have never seen a bigger pain in the rear end than the father who wants to get involved; he can be repulsive. He wants to meet the kid after school at three o'clock, take the kid out to dinner during the week, have the kid on his own birthday, talk to the kid on the phone every evening, go to every open school night, take the kid away for a whole weekend so they can be alone together. This type of involved father is pathological.**<sup>58</sup>

Many remaining fathers experience continued direct and assertive attempts by vindictive custodial mothers to deprive their children of quantitatively or qualitatively meaningful contact with them, even after the emotionally wrenching first year. Still other fathers, initially well or at least reasonably "treated," now encounter new and unexpected (often subtle) obstructions to their efforts to remain viable and credible as parents.

The children "still love" their father or love him "too much" or ask for dad "too often." Mother's reaction is understandable but tragic and wrong: restrict, orchestrate, or deny decreed parenting time between children and father.

After all, the father is not performing as expected. He is supposed to "visit," not parent. She is the parent. Her lawyer, friends, counselors, and even the judge who oversaw the separation have all defined noncustodial parenting to her as "he should pay 'child support' regularly, be on time for visitation (when you 'permit' it), and back up mother in the way she brings up the children.

Indeed, an attitude of autonomy and self-assurance as a parent, along with a continued intense love for his children,

are the characteristics that most threaten the concept of one-parent "custody and control" of children that the American way of divorce has imposed on our society and which Judge Huttner, in his ignorance, so eloquently expressed.

"Visitors" are not expected to have input in children's upbringing. "Visitors" should respect a "parent's" wishes as to activity during the visit.<sup>59</sup> Above all, visitors should not seek or accept affection from the child to the extent that it might parallel that shown between mother and child

Loving and persistent fathers find this attitude incredible and outrageous and often refuse to act as "visitors." When their time with their children is denied, those who can afford it (few can) and whose lawyer is supportive (few are) petition the court to reassert their "visitation" rights. Those who can't afford it and those whose own lawyer denigrates them with statements like "but that doesn't really hurt your kids; it just hurts you"<sup>60</sup> often believe this nonsense and just give up and drop out altogether.

The minority of fathers who make it to court frequently hear, after demonstrating (proof and witnesses are often needed) the denial of access, a mild lecture to the effect that "both of you are hurting your children by fighting like this." The judge will finish the lecture by admonishing both parents that the judge hopes he doesn't have to see them again in court. It is rare that a specific order will be issued to make up the time lost, even if it was extensive or even if a given father has not seen his children for weeks or months. Worse, a father can only hope that the decreed future time will be granted without obstruction. The publications of fathers' support groups are replete with reports of fathers who have returned to court on many occasions, at \$500 or more per return, and still failed to obtain an enforceable order for continued unobstructed access to their children.<sup>61</sup>

**In addition to assertive denial of access children often suffer "subtle" denial of the opportunity to see and love their fathers.**

When these heartbroken fathers drop out, as many do, their children are told, almost invariably, that he is a non-caring, selfish, immature lout who "doesn't give a darn for us."

In addition to assertive denial of access, children often suffer "subtle" denial of the opportunity to see and love their fathers. Denial by arrangement of conflicting activities is common. "She's going to her friend's birthday party" or "He has to go to the dentist this afternoon" are common ploys. It now becomes apparent that the term *visitation* is more than repugnant to any loving parent. It is a term that removes from the father the privilege of saying, "Fine, I'll take her there and bring her home (to my home) when it is over."

Obstructions to meaningful parenting are not limited to those contrived by vindictive mothers (and acquiesced to by judges and others) and are not always perpetrated consciously or with malignant or parent destroying intent. The term *visitation* simply removes all thoughts of parenting or parenthood for the parent to whom it is applied, and society and societal convention will react and proceed accordingly.

The author, whose children were surreptitiously removed from their home while he was in the office, was informed later (by the superintendent of the school to which his children were taken and enrolled) that he would not receive a duplicate report card (or any other information whatsoever) from the school because, by regulation, that information was given only to "parents."

This case was successfully litigated at the U.S. federal district court level after long and unsuccessful litigation before the New York state commissioner of education, and then in the New York Supreme Court.<sup>62</sup>

Physicians, like educators, judges, and lawyers, are not above ignorance and insensitivity when it comes to child/father relations. Many fathers regularly receive bills for medical service to their children and yet had no idea that their children were ill or seen. Calls for information about the child are frequently answered with a curt "please ask your ex-wife" response. When mother has "ordered" that father is to receive no information, physicians frequently comply automatically. That is, after all, the *parent* talking.

Obviously, emotional and financial resources necessary to resist and neutralize society's assumptions and attacks on postdivorce parenting as it relates to fathers are substantial and possessed by few fathers.<sup>63</sup> As previously stated, the wonder is that so many men *remain*.

With time, still new hurdles are encountered. Often, children are moved thousands of miles from father, rendering meaningless and unenforceable any "visitation rights" decreed in the agreement. Efforts to prevent the move usually



fail (the paternal efforts rather than the impending move in itself are recognized by the court as disruptive to the "stability" of the "family"). Efforts merely to modify the "visitation" provisions (e.g., to provide 30 days in the summer, and perhaps 7 days during Christmas and Easter holidays) often fail.

The entrance into their children's lives of new husbands or boyfriends often complicates or further obstructs the father/child bond. Frequently, these men are disenfranchised from their own children, for many of the same reasons enumerated herein. Yet, many believe fully the story often related that their new wife's ex-husband is a rotten, non-caring father who fights to "see" his children just to harass them and their mother. If he really cared, he'd let them get on with "their new lives" and wouldn't be giving them such a hard time. Mother did all the caring and upbringing during the marriage. Why is he acting like "father of the year" now?<sup>64</sup>

Often, these new "daddies" or "stepfathers" try to be loving and parental, but few even in this group are cognizant that children can learn easily to love them but still can and should maintain a loving bond with their fathers. Lamb<sup>65</sup> and others have demonstrated that children (even newborns) can bond to and love many more than one or two parents or parent figures.

Tragically, many children meet several "new daddies" over 5 (or 15) years, some or all of whom develop warm relationships with them, only to "lose" them as they and mother part company. Obviously, and especially in these situations, the importance of a stable, meaningful, loving, unbreakable, unabridgeable parental relationship for them with their father cannot be overemphasized.

#### **STAGE 5: UNMARRIED FATHERS: A UNIQUE AND SPECIAL TRAGEDY**

**If the road to single fatherhood is rocky, the road to unwed fatherhood is all but impassable....The more than two million unwed teenaged fathers in this country have very little chance of playing an active role in their children's lives. Women become mothers in the hospital, but men don't become fathers.... We have created a system in which we make sure that fathers don't get involved with their kids.**<sup>66</sup>

The young man whose girlfriend (or casual partner) bears their child faces complex and usually insurmountable problems as (and if) he struggles to assert and establish his parenthood.

For him, there exists more than mere malignant sexist assumptions that (divorced) mothers care more for or are more appropriate parents for their children. There is an assertive belief that this young man doesn't care at all or at least shouldn't. Correspondingly, mother should not be "interfered with" as she struggles to bring up "her" child.

If it is ever granted that this is his child as well, it is in the context of a "child support" obligation, such "support" being defined as exclusively financial.<sup>67</sup>

If the young man rightly defines his obligations toward his child as encompassing emotional, nurturing, and physical care, as well as financial support, and whether or not he is able to provide financial support, he is rebuffed by lawyers and judges as well as the young mother and her family, who will regard his request for unsupervised parenting time with his daughter as arrogant and as "dangerous" to the baby, who needs "stability" and needs "her mother." His own family may be pressuring him to "drop out."

Such assumptions regarding stability, maternal primacy, and fathers not caring are erroneous.<sup>68</sup> Stability can be found in a loving parent-infant dyad in either parent's home (or in another home) and can be much more appropriately defined for an infant as a constancy of loving care rather than a constancy of one human rendering it at one location.<sup>69</sup>

It is well established that (1) infants can and do establish loving bonds with persons other than their mother<sup>70</sup> (2) frequently in intact married couple homes, infants are more strongly bonded, or as strongly bonded, to their fathers<sup>71</sup> and (3) significant bonds with fathers often enrich and improve maternal-infant bonds.<sup>72</sup>

Should an unwed father ask for custody or joint custody of his baby, he is almost always kept out, or laughed out, of court. If he gets there, his "fitness" as a person and a parent will be intensely evaluated, and any negative factors in his past or present life (i.e., drug or alcohol use, previous unwed fatherhood, school problems, or unemployment) might well be used against him. Mother's fitness as a parent, either at or after delivery, is almost never evaluated or even considered worthy of discussion.<sup>73</sup>

**Should an unwed father ask for custody or joint custody of his baby, he is almost always kept out, or laughed out, of court.**

Mothers are automatically accepted as capable, knowledgeable, and nurturing as parents, or at least potentially so. If parenting deficits (e.g., psychiatric, drug, or alcohol problems) are obvious, she will be deemed to be in need of massive social, economic and psychiatric support. A father with similar deficits is deemed unworthy of any father-child contact whatsoever. Even visitation will be denied.

Despite overwhelming popular opinion to the contrary and overwhelming odds against meaningful involvement with their children, unwed fathers do care and worry about their children.<sup>74</sup> If many seem to have "abandoned" them, it is almost always because they were "aborted" as fathers totally extruded from meaningful parental contact with and knowledge of the child. Legal, social, and financial pressures to drop out are usually overwhelming and unrelenting.

Unwed fathers who continue a relationship with the mother (and tenuous ones with the children) quickly find that they, also, have no definable or meaningful legal rights to their children when the relationship with the mother is over.<sup>75</sup>

Most young men in this situation are financially insolvent, often in school or unemployed. As such, most are unable to financially support their children. Since many states require repayment of welfare benefits, and all require payment (and retroactive payment) of child support, a "wall of debt"<sup>76</sup> essentially separates them from any parental standing with their children, if such standing had not already been lost on a social or access-denial basis.

Again, the poignant question is not "Why do unwed dads disappear?" Rather, it is "How do the courageous and fortunate few who remain involved in their parental roles do it?"

## **EPILOGUE**

**It is, I believe, an instinctual part of parenthood for fathers (and mothers) to want to provide for their children's well-being. If current statistics about the lack of child support are true—something that is itself subject to further examination—then there would seem to be something drastically wrong with the present legal system that would so universally frustrate that natural instinct to provide.... It is amazing that no one wonders in part why an otherwise law-abiding, responsible citizen is suddenly turned into a deadbeat scofflaw after divorce.<sup>77</sup>**

Literally millions of divorced or unwed fathers who have lost contact with or never had contact with their children live and work in our country today. Most hold responsible and respectable positions in society and have "new" families. Many live in fear of losing their "new" children. We meet them every day in our private and professional lives, although we don't recognize them. In their overwhelming majority, they are not irresponsible, non-caring rats.

Some of these fathers support<sup>78</sup> their lost children financially, even though they are denied any opportunity to offer physical, emotional, or psychological support—all of which are more crucial to their children and the children's emotional and spiritual welfare.

Some fathers do not support their children financially. Many of these men (in the past) were never asked to or forced to. Some did not know that they had fathered a child. A few remained indigent. Others, destroyed or aborted as fathers, have made a conscious decision that biological fatherhood alone (like biological motherhood alone), coupled with a present or future ability to pay something, is not a fair criterion or standard by which financial obligations to a lost child should be incurred.

These fathers have met countless women (of all ages) who have made the heartbreaking decision to have their children adopted by loving couples. The fathers perceive the compassionate treatment accorded these women (vis-à-vis the fathers' "treatment as destroyed fathers") as unfair and representative of a double standard insofar as society's view of fathers is concerned.

Indeed, the unfortunate and hurting mothers do have their emotional needs recognized and addressed by individuals and society (men do not), and no person or municipal agency ever asks or expects them (regardless of their financial ability) to "support" these children whom they have "given up" or "walked away from."

Truly, our legal socio-cultural approach to fathers in general, and to divorced/unmarried fathers is, as illustrated herein, nothing less than a progressive series of well-meaning assumptions, beliefs, and then fiats, which lead to, indeed encourage, the physical and psychological disenfranchisement and destruction of fathers as parents.<sup>79</sup>

In the case specifically of unmarried fathers, or fathers separating during a pregnancy, the term extrusion<sup>80</sup> or even *abortion* is more accurate. These men are simply prevented from being fathers.

Why, indeed, are absent fathers "absent"? Why are deadbeat fathers "dead"? And how can pediatricians protect the children they serve and care for from experiencing this psychological catastrophe?

In my view, we should, first and emphatically, acknowledge to ourselves and others who listen to us that which Lamb,<sup>81</sup> Jacobs,<sup>82</sup> Huntington,<sup>83</sup> and others<sup>84</sup> have demonstrated: Many more "absent" fathers are victims rather than culprits.

This issue (fatherless children) is a multifaceted and tragic one and for too long has been falsely framed. Adjectives like killed or destroyed portray these fathers much more accurately than ones like deadbeat or absent.<sup>85</sup>

Having accepted this as a basic premise (widely divergent from present popular belief), it follows that our very approach as a society to the "absent father" problem is *flawed*.

"Dad" is not the problem. Neither, for that matter, is the vindictive mother who denies or manipulates "visitation" and thereby destroys or prevents any father-child bonding. Neither, indeed, is the judge who denies any "visitation" to a young unwed father, or who grants ridiculously inadequate "visitation" to a divorced father and then ignores or tacitly approves of the subsequent denial of same by mother.

The "problem" precedes visitation and its denial, although both the granting and the denial of "visitation" exacerbate it greatly.

The "problem," to the extent that this complex issue can be explained briefly, is with our concept of the merits of one-parent "custody"<sup>86</sup> or "ownership" of children when parents separate or were never married.

The word *custody* is derived from the Latin word *custas*, which means guard or keeper. It is defined (remarkably similarly in three Webster's dictionaries spanning 80 years of publication)<sup>87</sup> as a "guarding" or "keeping safe" or as protection, guardianship, or care, or keeping or guarding, as it relates to someone under arrest. The concept of guarding is clearly more operative than that of "care."

### **The granting of "visitation" itself serves often to demean and diminish a parent rather than sustain him.**

That concept—guarding—is, from this author's perspective both as a pediatrician and a parent, repugnant as it relates to any kind of child care. It is, however, a very accurate description of the position in which postdivorce parents are placed when one parent is granted or "awarded" custody, to the exclusion of the other parent. To the custodial parent is granted the power, indeed the duty, to "guard" and "keep safe" the children of these two parents. All too often, the charge given seems to be to keep the children "safe from" the other parent and his influence.

This clear assertion of power and superiority in parental position and practice, relative to the "other" parent, is not lost on either parent.<sup>88</sup> It is a minority of custodial parents who refrain from exerting this newly granted power in a vindictive and negative way, and a minority of noncustodial parents who can function parentally on a part-time and demeaning basis when such power is exerted.<sup>89</sup> They will now be "permitted" (maybe) to "visit" their baby, and they will have no autonomy in her upbringing.

Indeed, the granting of "visitation" itself serves often to demean and diminish a parent rather than sustain him.<sup>90</sup> Again, an examination of the word itself and the concept is in order. A "visit," or "visitation," is defined "to go or come to see someone out of friendship or for social reasons," to "stay with as a guest for a time," and "the act of calling upon another, a short stay."<sup>91</sup> The most heartbreaking definition of all was in the oldest dictionary I consulted: "to call upon," or to "keep up the interchange of civilities and salutations."<sup>92</sup>

This concept (as does *custody*) absolutely assaults the sensitivities of the most non-parental individual insofar as it is applied to the parent-child relationship. And yet, this concept is followed to the letter, especially with younger children, if and when "visitation" is even allowed.

The preceding discussion has not been an exercise in semantics. When *custody* is "awarded," rather than *mutual responsibility assigned*, then *disenfranchisement* has already occurred (unless the custodial parent wishes otherwise and acts accordingly) and disappearance, in due time, is likely.

Similarly, when a parent is granted "visitation," and the custodial parent and the judge treat it as such, rather than as *parenting time*, *disenfranchisement* has occurred, and disappearance is likely. With constant denial of same, disappearance is almost inevitable.

The only exception to this occurs when (1) the custodial parent desires and nurtures the other parent's parental relationship, (2) the children are old enough and assertive enough to insist on unhindered access to their father, or (3) their father (or mother) is persistent enough, rich enough, and fortunate enough to have a judge for whom biparental contact is important and to acquire and enforce meaningful access to his child. The third item is particularly difficult to achieve, even with the most indomitable spirit of love and motivation.<sup>93</sup>

Lest this "complete and unabridged" version of the facts concerning the fate of divorced and unwed fathers divert the reader from the main focus of this presentation, it is here reemphasized that postdivorce parental destruction (of *either* parent) is an unmitigated disaster for children, much more so than is divorce per se or any economic disadvantages secondary thereto.

Parental "absence" (especially absence perceived as volitional or due to parental non-concern) certainly ranks with, *and is often a precursor of*, delinquency, school failure, drug abuse, and teen pregnancy as one of our nation's most serious "problems of youth."

As such, it should command the intense attention of physicians, particularly we pediatricians whose prime concern and life work is the health and welfare of our nation's youth.

Often we underestimate our value to our patients as counselors and listeners—as family therapists. In point of fact, we are usually the first and often the only source of parenting advice and family counseling that our patients and their parents ever get.<sup>94</sup> For the majority of our patients who never acquire a serious disease, our counsel and observations, over time, can be our greatest contribution and that for which our services will be most fondly and gratefully remembered.

In the sensitive area of postdivorce parenting relationships, we can be of immense value to our patients by the care and concern, discreet observations, inquiry, and counsel that we offered on an ongoing basis before the marital problems occurred and that we can, it is hoped, reoffer and build on in this time of crisis.

**Be alert for demeaning of "deparenting" comments—often well intentioned, but damaging nevertheless—that he "baby-sits" them "while I work."**

We can start at the prenatal interview or in the newborn nursery. Inquiry as to parenting plans and philosophy (if such has been formed) and willingness to answer questions and offer comments about them will be appreciated and often carry great weight. It is here that an assessment of *both* parents' views and attitudes toward father importance and participation can be ascertained.

Although one cannot change lives and philosophies, it is very possible, by offering emotional support and knowledgeable advice, to nurture a shaky and seminal idea, promise continued availability for discussion of it, and thereby provide the psychological underpinnings for that person to commit to an activity that many relatives and peers believe is inappropriate or suboptimal for that person. This is particularly applicable to the young man who has not yet fully come to terms with his fatherhood and is not sure what is "normal" for him to do or to want to do with his baby. As discussed in Stage 1, he may be dying to touch and hold his infant and yet be too embarrassed and too deferent to mother's perceived needs to ask her to put the baby in *his* arms.

The same principles apply when meeting a family, or just a parent-infant pair, later in the office. During the initial history, we can, by perceptive observation and discreet inquiry, ascertain the domestic arrangements operative in this child's home, e.g., who does how much child care, who works outside the home, and for how many hours. We can observe and record parental attitudes and bonding (strong or not), and comment and counsel accordingly. These assessments, and the opportunity they provide you as a concerned and knowledgeable professional vis-à-vis baby's physical and emotional development are invaluable, especially if this family is later in trouble.

They are also valuable in the *short* term, and permit (indeed encourage) open discussion and inquiry by parents as to the value of "co-parenting," especially the value of "fathering" above and beyond the production of financial support.

Be alert for demeaning or "deparenting" comments—often well intentioned, but damaging nevertheless—that he "baby-sits" them "while I work." Also, listen for comments from mother or father to the effect that "Oh, he plays with the baby once in a while, but he doesn't feed or change her. He's afraid he might hurt her. Besides, that's my job."

I always ask to meet father at the next visit, if he is not now present, and I try physically to show him and emotionally to prime him to the fact that infants are emotionally needy, loving little human beings who do not thrive only from love and nurturance rendered by mothers and other females and whose care and nurture are not difficult to master, whether one is male or female. Often, it takes only a modicum of instruction and encouragement by a respected "elder" to instill confidence and enthusiasm in these hesitant and uninformed young men.

If one practices feeling, caring pediatrics, one will be consulted when divorce occurs (or at least the subject will be brought up during a patient visit).

If you know that both parents have been contributing and caring, you will be able to listen more objectively and to counsel that immediate and continued post divorce access to both parents, substantial in its quantity and quality, is an essential component of "treatment" of the children involved.<sup>95</sup> Emotional distress, distortion, and hyperbole are the rule rather than the exception in the immediate post separation period,<sup>96</sup> and one can expect frequent use of these during arguments that may be used in favor of denying access of children to the other loved parent.

If and when post divorce residential arrangements are being discussed, it is essential, in my view, to discuss these in terms of shared and alternating "parenting time" with the children. As previously discussed, nothing destroys parental feelings and confidence as quickly and ruthlessly as the term, and practice of, "visitation."<sup>97</sup>

In response to questions about the children's living arrangements, I believe it is far better, right from the start, to foster the concept that children will continue to "live" with *both* parents, in two homes, at varying times.<sup>98</sup> I urge this even if and when geographic separation of the parents is planned. I particularly emphasize and urge that the parent who might have more physical time, after agreements, than the other parent not assume a vindictive or superior parent role vis-à-vis the other parent.<sup>99</sup>

In response to the use of the word *custody* in any context, I urge all parties to substitute, in their decree/agreement, the term *responsibility*, and of course, to agree to "joint" responsibility, with alternating substantial "parenting time" and *no* visitation for anybody!<sup>100</sup>

One who is privileged with responsibility is responsible; one who may only visit, for short times, with permission, frequently won't be.

As for any collective efforts to better the lot of children of divorced or divorcing parents, we should make a greater effort to reach matrimonial lawyers and family court judges whose counsel (toward deparenting separation agreements) and whose orders (in court) alter forever (and usually negatively) the bonding and connections between a parent and child.<sup>101</sup> We should be in the fore-front of those now attempting to "humanize" the divorce process and protect children from the clear and present danger of "parentectomy."<sup>102</sup> It is usually we among child health professionals who are first contacted and consulted during family crises,<sup>103</sup> either directly or indirectly, when physical or divorce-related symptoms occur in one of our patients. Most parents cannot afford to consult mental health professionals, especially after paying legal fees.

Sadly, many mental health professionals, as well as legal professionals, continue to cling to outmoded concepts of maternal superiority, or "primary care" superiority, despite assertive evidence that infants are usually well bonded to *both* parents, regardless of who between them feeds and changes baby most.<sup>104</sup>

### **Sadly, many mental health professionals, as well as legal professionals, continue to cling to outmoded concepts of maternal superiority.**

In the view of many experts<sup>105</sup> and of the author,<sup>106</sup> joint physical and legal custody, whether or not the parents are communicating well is the goal for which we should strive. This is a *child* advocacy position, based on the strong impression that parent child bonds, with *both* parents, should survive parental divorce and that non-custody and "visitation" are tantamount, in most cases, to deparentization of the parent and psychological disaster for the child.

There are opponents to this view,<sup>107</sup> and the prime arguments they present are that joint parenting and responsibility produce confusion and lack of stability for children, especially younger ones, and that it is impossible or detrimental (to

the child) to implement when parents are "not cooperating" or hostile.

Although some confusion sometimes occurs, the benefits of a continued, *meaningful*, loving parental relationship with both parents far outweigh the annoyance and inconvenience.<sup>108</sup>

The constant moving *can* be annoying, especially with older children, who need two hair dryers in two different bathrooms, must place photographs of rock stars or boyfriends in two different bedrooms, and must explain to their peers why they take different school buses on different days.

**The overriding criterion of "success" in custody studies seems to be that of continuing involvement with the child by both parents.**

It seems abundantly clear that confusion and *critical* lack of stability is precisely what occurs when one parent suddenly disappears from a child's life—often without adequate or accurate explanation during the months between physical separation of parents and separation agreement (or for that matter, when a parent disappears "forever").

Regarding joint custody and its feasibility when the parents are adversarial,<sup>109</sup> it seems rarely to be pointed out that *sole* custody does not work either when parents constantly fight.

One need only review the sobering statistics presented earlier in this review—huge numbers of "parentectomized" children, never even seeing one of their parents, and (less critical, to be sure, but still of great significance) many children who are not receiving adequate financial support from those destroyed parents—to conclude assertively that sole custody is an abysmal failure when parents fight.

Joint custody, implemented and enforced, works or at least works much better than sole custody when parental hostility is present and when it is not. As such, it deserves strong consideration as the "least detrimental alternative"<sup>110</sup> for all children facing divorce, whether both parents ask for it or have been made aware of it as an option.

Children with a noncustodial parent usually lose that parent, joint custodial parents are both there and loved. Children with a noncustodial parent are often financially unsupported, whereas in their overwhelming majority, children with two functioning parents and no visitors are well supported.<sup>111</sup> Many fathers who are truly jointly responsible and loved, maintain financially both of their children's homes.

The overriding criterion of "success" in custody studies seems to be that of continuing involvement with the child by both parents,<sup>112</sup> the exact result that seems most obstructed and frustrated by our American way of divorce<sup>113</sup> and the judges and lawyers who sustain it and encourage its perpetuation.

A parent is a terrible thing to waste. Yet waste them we do, whenever we assign parental responsibilities to them as we simultaneously remove the blessings, fruits, and rights that should be concomitant therewith.

Pediatricians must view "absent" fathers from a clearer and more compassionate perspective, so that we may contribute significantly to substantially lessening their number. In doing so, we might contribute more towards improving the quality of life of our patients than through any other socially oriented endeavor.

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1 Excerpts from a dissenting opinion of Robert Bork in *Franz v. United States*, which involved a child who was secretly relocated, with her custodial mother, to a new home. Mother's new husband, was a protected witness in a major criminal investigation, and father was unable to see or even know the whereabouts of the child.

2 A. Levy, *Father Custody*, in *Emergency Issues in Child Psychiatry* (Schetky & Benedek eds., 1985); J.W. Jacobs, *Divorce and Child Custody Resolution: Conflicting Legal and Psychological Paradigms*, 143 *Am. J. Psychiatry* 192-97 (1986); H. Fitzgerald & C. McCread, *Fathers and Infants*, *Infant Mental Health J.* vol 2, no. 4 (1981)

3 M. Diehl, *A Texas Father Speaks Out For Equal Rights: A Survey of Discrimination*, in *Texas State Bar Section Report, Family Law Section*, vol. 82 (1982)

4 Levy, *supra* note 2; Jacobs, *Divorce and Child Custody Resolution*, *supra* note 2; M. Lamb, *The Role of the Father in Child Development* (1981); Fitzgerald & McCread, *supra* note 2; L. Gunsberg, *Selected Critical Review of Psychological Investigations of the Early Father-Infant Relationship*, in *Father and Child* (S. Cath et al., eds., 1982); J. Ross, *In Search of Fathering*, in *Father and Child* (S. Cath et al. eds., 1982).

5 J. Wallerstein & J. Kelly, *Effects of Divorce on the Visiting Father-Child Relationship*, 137 *Am J. Psychiatry* 1534-39 (1980); J. W. Jacobs, *The Effect of Divorce on Fathers: An Overview of the Literature*, 129 *Am. J. Psychiatry* 1235-41 (1982); J. W. Jacobs, *Treatment of Divorcing Fathers: Social and Psychotherapeutic Considerations*, 140 *Am. J. Psychiatry* 1294-99 (1983).

6 Wallerstein & Kelly, *Effects of Divorce*, *supra* note 5; J. Wallerstein & J. Kelly, *Surviving the Breakup* (1980); J. Herzog, *On Father Hunger: The Father's Role in the Modulation of Aggressive Drive and Fantasy*, in *Father and Child* (S. Cath et al. eds., 1982).

7 Jacobs, *Divorce and Child Custody Resolution*, *supra* note 2.

8 Wallerstein & Kelly, *Effects of Divorce*, *supra* note 5; Jacobs, *The Effect of Divorce on Fathers*, *supra* note 5.

9 Margaret Mead, as quoted by Fitzgerald & McCread, *supra* note 2, at 214.

10 Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5.

11 E. Teyber & C. Hoffman, *Missing Fathers*, *Psychology Today*, April 1987, at 36-39; Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5.

12 Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5. 131d

13 *Id*

14 Lamb, *supra* note 4.

15 Levy, *supra* note 2; Lamb, *supra* note 4; Herzog, *supra* note 6.

16 Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5; Jacobs, *Divorce and Child Custody Resolution*, *supra* note 2.

17 *Treatment of Divorcing Fathers*, *supra* note 5.

18 Jacobs, *The Effect of Divorce on Fathers*, *supra* note 5.

19 F. Williams, *What Judges and Mediators Can Do to Ameliorate the Effect of Divorce on Parents and Children*, 6 *State Bar of Cal. Fam. L News* 1-9 (1983).

20 Teyber & Hoffman, *supra* note 11.

21 Levy, *supra* note 2, excerpting from a guidebook on family law published by the Family Law Committee of the Minnesota State Bar Association in 1971.

22 L. Kiefer, *How to Win Custody* (1982).

23 Jacobs, *The Effect of Divorce on Fathers*, *supra* note 5; Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5.

24 L. Weitzman, *The Divorce Revolution* (1987).

25 This source ignores new home start-up costs, substantial attorney's fees (often including a large percentage of wife's attorney's fees), and child care expenses (well in addition to "child support" paid to the wife), among other expenses. Also, it ignores as a "standard of living" for parents the presence in one's home of one's *children*. There is a "standard of *loving*" to be factored into a "standard of living."

26 E. Rix, Women's Research & Education Institute of the Congressional Caucus for Women's Issues, *The American Woman*, 1987/88 (a review of Weitzman's *The Divorce resolution*).

27 Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5; D. Huntington, *Fathers: The Forgotten Figures in Divorce*, in *Divorce and Fatherhood: The Struggle for Parental Identity* (J. Jacobs ed., American Psychiatric Press, Inc.).

28 Teyber & Hoffman, *supra* note 11

29 R.E Fay, *Joint Custody for Infants and Toddlers*, 19 *Med. Aspects Hum. Sexuality* 134-39 (1985); Wallerstein & Kelly, *Effects of Divorce*, *supra* note 5; Jacobs, *The Effect of Divorce on Fathers*, *supra* note 5; Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5.

30 Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5; Wallerstein & Kelly, *Surviving*, *supra* note 6.

31 Jacobs, *The Effect of Divorce on Fathers*, *supra* note 5.

32 Wallerstein & Kelly, *Effects of Divorce*, *supra* note 5.

33 Levy, *supra* note 2.

34 Teyber & Hoffman, *supra* note 11.

35 Jacobs, *Divorce and Child Custody Resolution*, *supra* note 2; L Kiefer, *supra* note 22.

36 Teyber & Hoffman, *supra* note 11; L Kiefer, *supra* note 22.

37 As of this writing, some form of joint custody statute exist in approximately 30 states in this country. These statutes vary tremendously in strength of language (preference, presumption, options, etc.) and in definition. In general the majority of joint custody agreements (perhaps 70 percent) provide, still, for joint "legal" custody, with much more physical time with one parent (usually the mother).

38 Bruce v. Bruce, 14 Okla. 140, 165, 285 (1930).

39 Levy, *supra* note 2; Teyber & Hoffman, *supra* note 11; L. Kiefer, *supra* note 22.

40 Bruce v. Bruce, 14 Okla. 140, 165, 285 (1930).

41 Teyber & Hoffman, *supra* note 11.

42 Levy, *supra* note 2; Wallerstein & Kelly, *Effects of Divorce*, *supra* note 5; Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5; Jacobs, *Divorce and Child Custody Resolution*, *supra* note 2.

43 J. Goldstein et al., *Beyond the Best Interests of the Child* (1973).

44 D. Meredith, *Mom, Dad, and the Kids*, *Psychol. Today*, June 1985, at 62-67.

45 Texas Fathers for Equal Rights, Wives and Grandparents Coalition, *The legal status of the Non-Custodial Parent in Family Matters* (Houston).



46 Teyber & Hoffman, *supra* note 11; Wallerstein & Kelly, *Effects of Divorce*, *supra* note 5; Jacobs, *The Effect of Divorce on Fathers*, *supra* note 5; Gunsberg, *supra* note 4; Williams, *supra* note 19; Fay, *supra* note 29; Texas Fathers for Equal Rights, *supra* note 45; Ross, *supra* note 4; Wallerstein & Kelly, *Surviving*, *supra* note 6; Herzog, *supra* note 6; Rix, *supra* note 26; Huntington, *supra* note 27; M. Roman, joint Custody for Fathers— An Update, in *Divorce and Fatherhood: The Struggle for Parental Identity* (I. Jacobs ed., American Psychiatric Press, Inc.); P. Stahl, Bureau of National Affairs & Association of Family and Conciliation Courts, A Review of Joint and Shared Parenting Literature, in *Joint Custody and Shared Parenting* (J. Folberg ed., 1984); J. Greif, *Fathers, Children, and Joint Custody*, 49 *Am. J. Orthopsychiatry* 313, 318 (1979).

47 Wallerstein & Kelly, *Effects of Divorce*, *supra* note 5.

48 "Visitation," even if "permitted," is not usually frequent and does not in any case constitute parenting or meaningful interaction.

49 Wallerstein & Kelly, *Effects of Divorce*, *supra* note 5.

50 *Id.*; Jacobs, *The Effect of Divorce on Fathers*, *supra* note 5; Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5; Jacobs, *Divorce and Child Custody Resolution*, *supra* note 2.

51 Wallerstein & Kelly, *Effects of Divorce*, *supra* note 5; Fay, *supra* note 29.

52 Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5.

53 Diehl, *supra* note 3

54 Kiefer, *supra* note 22.

55 *Id.*; Texas Fathers for Equal Rights, *supra* note 45.

56 Some couples part amicably, and some mothers are cognizant of the father's equally critical role in their children's lives and act accordingly, encouraging rather than discouraging father's meaningful participation in postdivorce parenting. This enlightened attitude may change, however, with time see Stage 4).

57 Wallerstein & Kelly, *Effects of Divorce*, *supra* note 5; Wallerstein & Kelly, *Surviving*, *supra* note 6; The Father's Forum (Santa Ana, Cal.).

58 Verbatim statements from Judge Richard Huttner, former chief judge of the Kings County (Brooklyn) Family Court, and a prominent member of the New York State Commission on Child Support (quotation marks added), In *The Fathers Also Rise*, *New York Magazine*, Nov. 18, 1985, at 50-75.

59 This reference is missing.

60 The author, a pediatrician and joint custodial parent, was told exactly that by an attorney appointed "for the children" (guardian) during a contempt proceeding brought against his ex-wife.

61 The Father's Forum (Santa Ana, Gl.).

62 *Fay v. S. Colonie Bd. of Educ.*, 20 U.S.C. § 1232g tA) (1982). For the seven years during which this litigation proceeded, I was never sent one announcement by this school district. Despite 50 percent joint custody of my children, I have never received an announcement of or a packet of photos of school pictures taken of my children.

63 Jacobs, *Divorce and Child Custody Resolution*, *supra* note 2; F. Williams, *A Father's Post Divorce Struggle for Parental Identity*, in *Divorce and Fatherhood: The Struggle for Parental Identity* (Gq Jacobs ed.1; Huntington, *supra* note 27.

64 Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5.Cdl

65 Lamb, *supra* note 4; Gunsberg, *supra* note 4; Ross, *supra* note 4.

66 Bork quotes were taken from an insert article adjacent to D. Meredith, *Unwed Fathers: A Special Case*, *Psychology Today*, June 1985, at 62-67. The bottom quote was from Amy Williams of San Francisco's Teenage Pregnancy and Parenting Project (TAPP). The top quote was not specifically authored.

67 Meredith, *supra* note 66.

68 Levy, *supra* note 2; Lamb, *supra* note 4; Fitzgerald & McCread, *supra* note 2; Gunsberg, *supra* note 4; Meredith, *supra* note 66; Huntington, *supra* note 27.

69 Lamb, *supra* note 4; Stahl, *supra* note 46.

70 Lamb, *supra* note 4; Gunsberg, *supra* note 4.

71 Lamb, *supra* note 4; Gunsberg, *supra* note 4; Herzog, *Supra* note 6.

72 Lamb, *supra* note 4; Herzog, *supra* note 6.

73 Meredith, *supra* note 66.

74 This reference is missing.

75 *Id*

76 *Id*

77 From an article by John D. Lauer in *Network* (vol 2. no. 1), a journal of the National Congress for Men. The address of the Congress is 223 1 5th St. E Washington, DC 20003

78 The most commonly published and quoted figure for "child support" compliance is that approximately 50 percent of "noncustodial parents" pay their support obligation in full, 25 percent pay only part of it and 25 percent pay nothing. A study of noncustodial *mothers* in Austin, Texas, showed much smaller compliance rates for them. M. Diehl, *supra* note 3. Studies of payment rates for joint custodial parents, and those noncustodial parents who are able to remain a viable part of their children's lives, show much higher compliance.

79 Jacobs, *Divorce and Child Custody Resolution*, *supra* note 2; Wallerstein & Kelly, *Surviving*, *supra* note 6.

80 Meredith, *supra* note 66

81 Lamb, *supra* note 4.

82 Jacobs, *The Effect of Divorce & Fathers*, *supra* note 5; Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5.

83 Huntington, *supra* note 27.

84 Meredith, *supra* note 66

85 Jacobs, *The Effect of Divorce on Fathers*, *supra* note 5; Wallerstein & Kelly, *Surviving*, *supra* note 6.

86 Goldstein et al., *supra* note 43

87 Webster's Condensed Dictionary, 20th Century Ed. (G&C Merriam Co. 1909); Webster's New American Dictionary Colonial Press 1957); Webster's New World Dictionary, Second college Ed (Simon and Schuster).

88 Wallerstein & Kelly, *Effects of Divorce*, *supra* note 5; Jacobs, *The Effect of Divorce on Fathers*, *supra* note 5; Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5; Jacobs, *Divorce and Child Custody Resolution*, *supra* note 2

89 Teyber & Hoffman, *supra* note 11; Wallerstein & Kelly, *Effects of Divorce*, *supra* note 5; Jacobs, *The Effect of Divorce on Fathers*, *supra* note 5; Wallerstein & Kelly, *Surviving*, *supra* note 6; Huntington, *supra* note 27.

90 Wallerstein & Kelly, *Effects of Divorce*, *supra* note 5.

91 Webster's Condensed Dictionary, 20th Century Ed. (G&C Merriam Co. 1909); Webster's New American Dictionary (Colonial Press 1957); Webster's New World Dictionary, Second College Ed. (Simon and Schuster).

92 Webster's Condensed Dictionary, 20th Century Ed. (G&C Merriam Co. 1909).

93 Jacobs, *Divorce and Child Custody Resolution*, *supra* note 2

94 R.R. Rosenstem & G.A. Clare, *Feelings and Their Medical significance*, vol. 23 (Columbus, Ohio, Ross Laboratories, 1981).

95 Wallerstein & Kelly, *Effects of Divorce*, *supra* note 5; Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5.

96 Levy, *supra* note 2; Wallerstein & Kelly, *Effects of Divorce*, *supra* note 5; Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5; Williams, *supra* note 63.

97 Williams, *supra* note 63.

98 Williams, *supra* note 19; Williams, *supra* note 63; Fay, *supra* note 29.

99 Williams, *supra* note 63; Fay, *supra* note 29

100 Roman, *Supra* note 46; M. Roman & W. Haddad, *The Disposable Parent- The Case for Joint Custody (1978)*

101 Jacobs, *The Effect of Divorce on Fathers*, *supra* note 5; Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5; Jacobs, *Divorce and Child Custody Resolution*, *supra* note 2; Williams, *supra* note 19; Williams, *supra* note 63; Roman, *supra* note 46; M. Roman ,& W. Haddad, *The Disposable Parent: the Case for Joint Custody (1978)*

102 Williams, *supra* note 19; Williams, *supra* note 63.

103 Rosenstem & Clare, *supra* note 94.

104 Levy, *supra* note 2; Lamb, *supra* note 4; Ross, *supra* note 4; Herzog, *supra* note 6; Stahl, *supra* note 46.

105 Williams, *supra* note 63; Roman, *supra* note 46; Stahl, *supra* note 46; Greif, *supra* note 46; A. Abarbanel, *Shared Parenting After Separation and Divorce A Study of Joint Custody*, 49 Am. J. Orthopsychiatry 320 (1979)

106 Fay, *supra* note 29

107 Weitzman, *supra* note 24; Goldstein et al., *supra* note 43; *Why Joint Custody Doesn't Always Work*, 84 Changing times 58 (1984); J. Schulman & V. Pitt, *Second Thoughts on Joint Custody: Analysis of Legislation and Its implications for Women and Children*, in *Joint Custody and Shared Parenting* 209-22 (J. Folberg ed., 1984).

108 Fay, *supra* note 15; Roman, *supra* note 46; Roman Haddad *supra* note 100.

109 Roman, *supra* note 46; Greif, *supra* note 46; Why *Joint Custody Doesn't Always Work*, *supra* note 107.

110 Goldstein et al., *Supra* note 43.

111 Grejf, *supra* note 46.

112 Wallerstein & Kelly, *Effects of Divorce*, *supra* note 5; Wallerstein & Kelly, *Surviving*, *supra* note 6; Roman, *supra* note 46; Roman & Haddad, *supra* note 100.

113 Teyber & Hoffman, *supra* note 11; Jacobs, *The Effects of Divorce on Fathers*, *supra* note 5; Jacobs, *Treatment of Divorcing Fathers*, *supra* note 5; Jacobs, *Divorce and Child Custody Resolution*, *supra* note 2; Roman, *supra* note 46; Roman Haddad, *supra* note 100