

Children in Need of Parents
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Abstracts

Getting Serious About Fathers: Dealing With the Issue of Unwed Fathers

Elizabeth Barker Brandt

Synopsis: The United States Supreme Court has not addressed the rights of unwed fathers to establish relationships with their children since 1986. Since that time, states have been experimenting with statutory schemes that determine when such father will be included in adoption and parental termination decision regarding their children. State law is general unsympathetic to unwed fathers -- attempting to establish the quickest and surest way to insure that such men do not bog down the adoption system with their claims. I argue that the approaches of many states treat on the constitutional rights of unwed fathers and that by trying to exclude these men whenever possible, we are sending the wrong message to men regarding their responsibilities as fathers. Our current system has resulted in excluding men who desperately desire to parent their children. In doing so we pursue a policy at the outset of children's lives that devalues the role of fathers.

How a Family's Religious Involvement Benefits Children and Youth

David C. Dollahite

A growing body of empirical research demonstrates that a family's religious involvement directly benefits their children and youth in many ways. Divorce rates are lower and marital satisfaction and quality scores highest among religiously involved couples.

Religious

practices are linked with family satisfaction, closer father-child relationships, and closer parent-child relationships. There is less domestic violence among more religious couples and religious parents are less likely to abuse or yell at their children. Greater religiosity in parents and youth is associated with a variety of protective factors for adolescents.

Rigorous meta-analyses conducted by scholars in various disciplines have demonstrated that many of the salutary mental, physical, and marital correlations between religiosity and well-being are quite robust and not attributable merely to selection effects orexplained away by socio-demographic factors. This paper will discuss this literature and provide findings from qualitative research conductedby the author with Jewish, Christian, and Muslim families with adolescent children in New England and Northern California.

Choice and Kinship in Contemporary Family Law

William C. Duncan

Recent legal developments have called into question longstanding understandings about what parenthood actually means. How do we know who a child's parents are? As a legal matter, is "parent" a noun or verb or both?

This paper describes two legal approaches to parenthood—one based in kinship and another in personal choice. The kinship approach utilizes formal ties like marriage and biology. The choice paradigm focuses on the intent of persons who might be identified as parents. Both concepts are reflected in current law.

The paper will use a small but significant set of cases as an illustration of the competing concepts. These cases examine the claims of unmarried partners of a child's parents to be considered co-parent of the child.

The paper will conclude with some observations on the implications of the trend toward choice as the locus for defining parenthood.

Achieving Recognition of Same-Sex Parents

Professor Deborah L. Forman

In recent years, gay and lesbian parents have made dramatic strides in achieving recognition of their parental rights, but barriers still remain. In this paper, I am concerned specifically with arguments for granting parental status to a same-sex parent who is neither biologically related to nor an adoptive parent of a child being raised by the couple. The paper will develop arguments based on the Uniform Parentage Act and explore other recent developments related to recognition of parental rights of same-sex partners.

Federal Policy Efforts in the United States to Improve Outcomes Among Low-Income Families

by Supporting Marriage and Family Stability

Alan J. Hawkins, Ph.D., CFLE

This presentation reviews the connections between poverty, family structure, and child well-being, explains the rationale for a new policy strategy that is focused on intervening more directly at the level of family structure, and describes several major federal initiatives in the United States, and one state initiative, to develop and test the new strategies. A primary strategy is to make research-based marriage education available to a wider proportion of couples, especially fragile families and lower-income married couples.

Contemporary Interjurisdictional Recognition Issues Involving Children: Assessing The Impact of Novel Living Arrangements and Technological Innovations

Professor L. Lynn Hogue, Georgia State University College of Law

Social changes including novel living arrangements and technological innovations are raising new and challenging issues regarding interjurisdictional recognition. Some of those issues pertain to extraterritorial recognition of nonmarital and alternative partnering and living arrangements. This paper will consider conflicts of laws issues that may arise in relation to children and adult living arrangements, present an analysis of those issues

under existing and developing conflicts principles, and suggest how those issues are likely to be resolved.

Preventing Fatherlessness Through Adoption, But Protecting the Parental Rights of Unwed Fathers: How Effective Are Paternity Registries?

Laurence Nolan

When the United States Supreme Court held in *Stanley v. Illinois* that unwed fathers had a constitutionally protected liberty interest in the parent-child relationship, those involved in the adoption process paid particular attention to its footnote nine and questioned whether the rationale of *Stanley* applied to the adoption process, where the unwed father was usually not included and often unknown. Footnote nine stated that the state's cost of providing procedural due process of notice to unwed fathers for individualized hearings on parental fitness would be minimal, including when notice would be given by publication to unknown fathers. Later cases clarified that the rationale of *Stanley* did apply to adoption proceedings. Many states responded to footnote nine by enacting registration statutes, commonly known as paternity registries, as the process to give notice to unwed fathers of adoption proceedings. This paper will examine the effectiveness of paternity registries in balancing the interests of expediting and stabilizing the adoption process to prevent fatherlessness and the interest of protecting the unwed biological father's liberty interest in parenthood.

Father's Contact with their Children Following Parental Separation: A New Approach in Australia

Patrick Parkinson, Professor of Law, University of Sydney, Australia

One of the consequences of separation and divorce that has been observed in a number of countries, has been the gradual disappearance of non-custodial parents - mostly fathers - from involvement in their children's lives. Recent research from Australia on patterns of contact between non-resident fathers and their children in a nationally representative sample of separated parents showed that more than one-third of children whose parents do not live together do not see their fathers, while 17% have daytime-only contact. Although the majority of resident mothers expressed satisfaction with the contact arrangements, 40% reported that they would like to see more father-child contact taking place, while only 5% thought that there was too much contact. By contrast, three quarters of non-resident fathers wanted more contact with their children. Following a Parliamentary Inquiry into Parenting After Separation, and an extensive public debate, the Government has now announced a major new initiative to support parenting after separation. The plan is to establish a network of government-funded Family Relationship Centres across the country run by relationship counselling and mediation organizations. These Centres will provide free information sessions on parenting after separation to help parents understand what their children need, free advice on the range of government and non-government services which may be able to assist them deal with their problems in the aftermath of separation, and up to three hours of free mediation. The Centres will also have a role in dealing with disputes about enforcement of orders, and in assisting grandparents to gain access to their grandchildren. The Centres will also play a role in

strengthening intact relationships by helping people access pre-marital counselling and counselling services to assist people whose relationships are in difficulty.

E. Vance Randall, Ph.D.

The type of education one receives influences how one perceives reality, what meanings are attached to these perceptions, which social arrangements are legitimate, which personal relationships are deemed proper, which family configurations are considered ideal, and what constitutes moral or unethical behavior. As cultural flashpoints, schools often become battle grounds over which private values, beliefs, and world views will be raised to public orthodoxy. There is simply much at stake and the determination of both the content and process of education is ultimately a political exercise of power to achieve social ends. In addition to the inherent socialization function of schooling, the establishment of public schools and the passage of compulsory education laws greatly exacerbate a tortuous political problem of determining the curricular content of education. Children in public schools are a captive and immature audience under the auspices of the state. Whatever is presented and taught to children in public schools takes on the imprimatur of the state. This requires the state to exercise great caution so as to not advocate, even implicitly, values and beliefs that run contrary to the fundamental rights of its citizens or violate the basic elements of a common or public morality. Proposals to use the public schools as forums to advocate the egalitarian position or ethical relativism of various lifestyles, such as gay and lesbian lifestyles or same sex marriages, constitute a brazen attempt to socialize young, highly impressionable and immature children into believing, with the support of the state, that the traditional notion of what constitutes an ideal family is but one of many equally good alternatives and that gay and lesbian lifestyles are but a sample of many equally moral and productive lifestyles from which they can choose. Such proposals are not sustained by any constitutional requirements, ignore the vulnerability and immature development of the audience, and they not accord with a common public morality. Until the current contentious cultural debate over these issues has moved toward some form of resolution, such proposals to use public schools as forums of advocacy are premature in terms of the nature and terms of debate as well as using a protected public forum to advance personal beliefs as public values.

Autonomy, Gay Rights and Human Self-Fulfillment: An Argument for Modified Liberalism in Public Education

Vincent J. Samar

Recent discussions among some liberal theorists, debate whether the proper function of government is to promote multicultural conceptions of the good or to only protect individual autonomy through social tolerance. These debates implicate some sexual orientation concerns such as whether government should or should not be fostering any particular lifestyle(s) through everything from funding of the arts to resolutions recognizing gay pride. My talk will concern the relationship of government's protection of human autonomy and its promotion of various cultural goods concerning gays, lesbians, bisexuals and transgendered people in the context of public primary and secondary education. The argument I will make is that the promotion of such goods,

while not logically part of the concept of autonomy, is, nevertheless practically necessary to the development of individual self-fulfillment. This will be shown by the fact that support for some cultural goods gives potency to the concept of human autonomy thus adding to human dignity. But, if my argument is to succeed, it will also require me to show how government might develop a morally satisfactory procedure to determine both which cultural goods it should promote and by how much of an investment. I will thus also be arguing that such a selection procedure must, in the first instance, be determined by a conception of autonomy that is itself a part of universal human rights morality. Such a conception, I believe, should also afford a way to draw out the connection between unspecified human liberty and the idea of individual autonomy, as rational self-rule over both the means and the ends of human actions.

Parentlessness: Adoption Problems, Paradigms, Policies, and Parameters

Lynn D. Wardle

Parentlessness is not just a problem of third-world countries. While disease, famine, poverty, and war are not the major causes of parentlessness in affluent western countries as they are in less-developed nations, there are parentless and partially-parentless children in even the most affluent nations. Ironically, parentlessness in the United States of America is growing, despite the almost unparalleled affluence, health, education, economic and political advantages and resources. Social practices and adult lifestyle preferences in the United States have produced children who are totally and partially parentless.

This paper will focus on the growing "partial parentlessness" resulting from adult lifestyle preferences, particularly from adult sexual and procreative preferences. It will briefly describe the scope of the parentlessness problem in the United States in general, and specifically regarding the deliberate partial-parentless of one-gender couple parenting. It will examine the shifting root paradigm that concerns parenting, and examine the implications of the trends and changes. It will review some recent statutory and case law developments regarding same-sex couple parenting, focusing specifically on "lesbigay" adoption. It will suggest that the social importance of parenthood requires the internal recognition or external imposition of some limitations upon the absolute autonomy of adults who wish to be parents. It suggests that responsible public policy must define and enforce limits on adult lifestyle preferences when they jeopardize the best interests of children.

Planned Parent-Deprivation and the Normless Family

Camille S. Williams

Currently, most of the children being raised by same-sex couples were born in heterosexual unions, but the number of children produced for same-sex couples via in vitro fertilization or adopted as newborns. In effect, these same-sex couples are deciding before the child is conceived, or before the child is born, that the child will grow up with no mother or with no father in the home. The effects on children are not yet known, but what is known suggest that such practices may have some detrimental effects on children.

Recent theorizing on the family has used queer theory as a means to destabilize the categories of sex, gender, and family, attempting to displace “mainstream heterosexuality as a baseline for judging family normality.”

My paper will explore some of the theoretical and practical consequences of jettisoning the traditional family structure and replacing it with a “normless” definition of family structured according to individual creativity, desires, sensibilities, and the opportunities which happen to arise.

The Mixed Blessings of No-Fault Divorce

Professor Nicholas H. Wolfinger

Recent attempts to weaken or abrogate no-fault divorce laws have often been premised on research showing that divorce is hard on children and economically disastrous for women. In this paper I draw on new research to show that weakening no-fault divorce laws would paradoxically make things worse for the intended beneficiaries. Divorce still has negative consequences for adults and children, but many of these have declined significantly in recent years. Repealing no-fault divorce laws would recreate many of the conditions, including higher levels of stigma and decreased selection out of high-conflict marriages, that used to make divorce harder on offspring than it now is.