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FATHERS' RIGHTS, WOMEN'S LOSSES

SCARLET POLLOCK

Sociology & Social Anthropology, Dalhousie University, Halifax, Nova Scotia, Canada

and

Jo SUTTON

Applied Social Studies, University of Bradford, Bradford, Yorkshire, U.K.

Synopsis—Recent international moves to defend the family, protect and enhance the rights of men. For example, state proposals to redefine illegitimacy extend men's rights in marriage to unmarried men. Women are losing the choice to bring up children on our own, or together, without men.

The position of men in the family is not based upon equality with women. Fatherhood is not the equivalent of motherhood, nor the support for it. The particular right of fatherhood is the right of men to take up a social position of authority over women and children. This is not an interchangeable position, for fatherhood is accrued solely to men. Social policies which encourage the presence of men in all families, and support the 'role' of father, perpetuate sexual inequality and discrimination against women.

ILLEGITIMATE CHILDREN, OR THE LEGITIMACY OF FATHERHOOD

An illegitimate child is one who has no father. This is obviously not a biological definition. In a biological sense, every child has a father. It would be absurd to argue that every child should have a biological father. Illegitimacy is a social and political concept. The existence or non-existence of a mother is defined as irrelevant to the status of illegitimacy. What counts as important is solely that a child should have a father. Social and legal discrimination against illegitimate children exerts great pressure upon mothers to secure a man, a father, who can legitimate children. The status of illegitimacy, imposed upon children whose father is not married to their mother, perpetuates the legitimacy of fatherhood.

The issue of illegitimacy is centred upon the social construction of what is a father and what is a family. Ideologically, a family should contain two parents: a female who is a mother and a male who is a father to the child/ren. Attempts to describe other arrangements are couched in language which expresses deviation and social deviance from this model, for example, one-parent families, fatherless families, broken homes. To be a legitimate family the two parents must be, or at least at one time have been, married. Marriage involves a set of legal rights and

obligations which affirms the relations between men, women and children; within this framework men are legitimated as fathers.

In general, fatherhood is portrayed as simply a natural relation, meaning biological. The legal rights and obligations of men in marriage are perceived as little more than a biological imperative. There are, of course, 'absent' fathers or 'bad' fathers, but fatherhood, the norm and the ideal, is seen as good and right and beyond question. It is socially justified in terms of the biological relation between a man and his sperm.

The international claims of fathers of illegitimate children can be seen through recent legislation in New Zealand, all Australian States except Victoria, Switzerland, Austria, France, the Netherlands and West Germany. In the U.S.A. a number of States have adopted the Uniform Parentage Act, and many have given unmarried biological fathers equal rights by judicial decisions based upon Constitutional rights. This 'equal rights' trend of the late 1960s and 1970s is not based upon equality between fathers and mothers, men and women, but between married men and unmarried men.

The direction of these changes has been to strengthen men's legal claims to children, and the chances of men gaining custody over children. It is to lessen the legal importance of marriage—a formal social contract between heterosexual part-

ners. It will increase the claims of men over women and children irrespective of their social relationships.

In 1975 an agreement set out by the Council of Europe, and signed by the United Kingdom, designed the legal abolition of illegitimacy. This did not do away with the necessity of a father to legitimate a child's existence, as might seem simplest. Rather, it was proposed to extend the legitimacy of biological fathers' claims to the child of women to whom they were not married. The child would continue to be illegitimate, in the sense that the parents were not married, but the rights and obligations of a father would be established 'by voluntary recognition or by judicial decision' (1975, Article 3).

Since this time two British Law Commission Reports (1979, 1982) have appeared, which explore the legal alternatives for securing men's rights and obligations as fathers. Although these proposals are being discussed within the rubric of changing the status of illegitimacy, the Law Commission acknowledges that what is predominantly being addressed is the rights of men (1979, para 2.11). Outside of marriage, men are at present not able to establish paternity to a child nor claim rights of guardianship, custody or access, *without the consent of the child's mother*. This is a problem for men. Within marriage a woman's consent is not legally necessary; her husband is presumed to be the biological father, and is given the accompanying social and legal rights of a father (unless a competing claim is proved). What the proposed legislation would do is override the necessity for a woman's consent outside of marriage. The consent of the mother is made unnecessary, and men are enabled to take up the position of father.

It can be difficult to disentangle the position of fathers in relation to mothers, and to children, because the current debate conflates fatherhood in such a way as to concentrate only upon the relationship of a man to a child. This ignores the rights and privileges of men over women, supported by the position of father (see Sutton and Friedman, 1982). Thus, Samuels (1983) is able to argue that regardless of a man's behaviour towards the mother, he deserves the rights and privileges of being a father. This has serious consequences for women as well as for children.

Samuels points out that a biological father can be, and is 'all too often unmeritorious' (1983: 88). The man may have 'deceived' the woman, 'jilted' her, been 'interested only in sexual gratification'; he may 'even be guilty of rape'. His relationship with the child may be no better than his relationship with the mother. He may have 'failed to support the child' and his interest in the child may be 'merely a means of blackmailing, harassing, pressurizing, embarrassing or threatening the security of the mother' (*ibid.*). These are seen as insufficient grounds to deprive an

unmarried man of his right to be a social father, as well as being the biological father, to a child. Furthermore, this right is viewed as taking priority over the mother's judgement and wishes.

The principle which is being affirmed is the legitimacy of fatherhood. The rights and privileges of the position of father is bestowed upon men regardless of their behaviour towards women and children and irrespective of the mothers' wishes. Men's rights are justified as stemming from biology, but the action which is recommended is social and political. What we are witnessing is the attempt to extend the existing power of fathers within marriage, to beyond marriage.

In the face of high divorce rates, an increasing illegitimacy rate and a growing number of one-parent families, there has been an upsurge in efforts to reaffirm the family as the basic unit of our society. Fears are expressed about the possible breakdown of family life, and about social instability. Deviant families, particularly fatherless families, are portrayed to be disadvantageous for children, economically and socially. The image of family life as secure, morally sound and vital for children is propounded at the same time as 'breakdown' rates are made visible. The family is seen to be in need of support.

We would argue that what is seen to be in need of support is the position of men in the family, fathers. The Law Commission report on illegitimacy (1982), for example, points both to the increasing numbers of illegitimate births in England and Wales—77,400 in 1980 compared with 53,800 in 1976—and the increasing ratio of illegitimate births as a percentage of total number of births in that year, reaching 11.8 per cent in 1980 (Haskey, 1982). While these children may be legitimated through marriage or adoption in subsequent years, the concern is repeatedly stated that it 'is likely to be that a greater number of mothers than in the past now accept their illegitimate children and bring them up themselves' (para. 2.2). This possibility is presented as alarming, and the Law Commission's proposed Family Law Reform Bill sets out to make it almost impossible for women to raise children without men.

Interestingly, these figures point much less clearly to either a sharp increase in the proportion of illegitimate births or a marked trend towards fatherless families, than is suggested in the proposed legislation. For one thing, data collection methods changed during this period resulting in a greater likelihood of reported illegitimate births (Werner, 1982). Second, the number of unmarried women of childbearing age (15-44) in the population between 1977 and 1980 increased by 13 per cent. The increase in numbers of illegitimate births does not necessarily reflect an increasing trend (*ibid.*). Third, Werner suggests that the increasing numbers of separated mothers aged 30 or over in the 1970s, who were registered as having illegitimate children, were

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living with their future husband while awaiting divorce proceedings involving their first husband to be completed. Fourth, it is estimated that over a third of illegitimate children are born into relatively stable unions; 41 per cent live with their biological parents (mother and father) by the age of 11, and 65 per cent live in some kind of two-parent family (Leete, 1978; Lambert and Streater, 1980, quoted in Law Commission, 1982). These illegitimate children are not living in fatherless families, being brought up by women only.

Close to one in three marriages are now estimated to end in divorce (Haskey, 1982). This figure alone raises much alarm about the growth of fatherless families, since 90 per cent of one-parent families are headed by women (Letts, 1983). Once again, however, the picture is more complicated than this suggests. Despite the evidence that 7 out of 10 divorces are initiated by women (*Social Trends*, 1984), it does not appear to be the case that large numbers of women are electing to bring their children up without a father, or father figure. Only 4 per cent of households in 1982 consisted of lone female parents with dependent children (*Social Trends*, 1984), suggesting high rates of remarriage and cohabitation. Pre-marital cohabitation is overall increasing, and widowed, divorced or separated women are far more likely to be cohabiting than single (never married) women (*ibid.*). Remarriages have increased substantially since the Divorce Reform Act came into effect in 1971. Over half of the women who separated between 1970 and 1974, before the age of 35, had remarried within six years (*ibid.*). Haskey (1982) estimates that of women under 50 in 1979 who remarried during the second half of the 1970s, over one quarter remarried within 3 months, over half within the year and nearly three-quarters within 2 years of their divorce. Further, while one in five children are likely to experience divorcing parents and a large proportion of these children are likely to live with a lone parent for some period of their lives, a large proportion of lone parents will subsequently remarry and the child become part of a new (heterosexual) two-parent family unit (Haskey, 1983).

The trend towards women bringing up children without men is much less marked than references to high divorce rates or increasing illegitimacy rates suggest. Divorced women are highly likely to cohabit or remarry; mothers of illegitimate children, too. One-parent families are a transient state for the most part, for both women and children. Patterns of marriage and divorce are clearly changing, but this does not reveal a dramatic trend towards fatherless families.

Yet a high level of concern is expressed about the possibility of women bringing up children without men. The Law Commission (1982) assumes the availability of contraception and abortion, and

emphasizes that illegitimate children are likely to be 'wanted' by their mothers. That is, the Law Commission suggests that women, by choice, are having illegitimate children and bringing them up without men. The report as a whole is addressed to this 'social problem' of women's choice and is designed to put a stop to it.

Legislation in this area is very likely given British government's commitment to the Council of Europe Convention of 1975. The Law Commission's proposal for legislation is very interesting, for it is based less upon an analysis of what is happening than on a concern of what might or could be happening. The figures which are used to argue for the Law Commission proposals to abolish illegitimacy are unrealistic. They do not, in fact, point towards marked increases in fatherless families. Yet this is an existing possibility which the Government intends to minimize. It is proposed that the rights of men over children are to be extended outside of marriage, while the possibility of women's independence be curtailed.

FATHERHOOD

Being a father is a social position of high patriarchal status and respect. It is a senior position of power. Fatherhood expresses the relationship between fathers and others, between senior males and less powerful others. Within the nuclear family this involves dominance over a woman and children. Fatherhood is the ideology and practice of the dominance of the senior male.

The path of social development for a male, in its narrow nuclear family sense, reaches its zenith at the birth of 'his' first child: he becomes a father and is enabled to practice fatherhood. This is an institutionalised relationship, through which a man gains social respect both within and outside the family unit. He is socially supported in practising the authority of a senior male.

Elsewhere (Sutton and Friedman, 1982) we have explored the authority of fatherhood as the means of instilling in family members a recognition and acceptance of, and acquiescence to, male authority in general. It is a means through which male supremacy is self-perpetuated. Fatherhood ensures that male children grow up 'normal'—that is, heterosexual, practising brotherhood, and eventually growing into fathers. Through fatherhood, girls are taught femininity—the proper place of women subordinate to men, the art of loyalty and service to men, and a thorough disrespect for women. While the rhetoric of mutual parenthood may seem to convey equality and exchange, the social position of each parent is hierarchically organized. The powerlessness of women is made clear and is.

continually affirmed by the father's authority over mothers and motherhood.

Arguments in support of the heterosexual family are couched in terms of the 'best interests' of the child. This is a circular argument for what is seen to be in the best interests of the child is to have a social father, and thus to live in a heterosexual family. The possibility for women to break away from this patriarchal family structure is extremely limited. It is currently being made more difficult as both right- and left-wing positions support the ideal family as if it were based upon equality, and in the best interests of children.

The family is not an equal place for men and women because men as fathers are granted social power over women and children. State concern with 'the problem of fatherless families' is less a consideration of poverty and stigmatization than an attempt to impose male authority. Posing fatherlessness as the problem, then presenting men as the solution serves only to perpetuate political inequality for women and children.

If a particular father fails to practice fatherhood there are a variety of state supported agencies which may step in to ensure that authority relations are maintained (see, for example, Cavanagh on the practice of personal social services, forthcoming). Similarly, a man may not wish to exercise the power of his position over an individual woman and child/ren within a heterosexual relationship. Nevertheless, he retains his prerogative to do so and to draw upon structures of inequality. While he may make an exception of an individual woman, he does not give up his overall power as a male. Sex discrimination in employment, housing, state benefits, and so on, allow men greater access to resources. Men continue to be preferentially treated within social institutions and are the beneficiaries of discriminatory state policies and practices.

Challenging inequality is not only an individual issue. While men may participate in housework and childcare to a greater or lesser extent, they do not in consequence lose their male dominant social privileges. The rights and authority of fatherhood protect men from the potential for sexual equality. To deny this assigned privilege would mean that men would have to renounce any claim to children.

A married man may at present claim rights of exclusive custody or care and control of children upon divorce. If the proposed legal changes on illegitimacy take place, as is likely, these may also be staked by unmarried men. Unmarried men will be able to claim child custody, care and control at any time. This possibility leaves it open for men, irrespective of marriage, to threaten to use the power of the state against women. It will put women as mothers in an even weaker position in relation to men than if they were a wife.

FATHERS AND CHILDBIRTH

We turn now to a recent trend which promotes fatherhood and hence, the authority of men in the family. The presence of men at childbirth affirms a relationship to women and children which is based on the social position of father. Their presence is not a simple expression of support for women who are giving birth, but an assertion of men's rights.

Fatherhood has increasingly become the subject of sociologists and psychologists, as well as social policy and film-makers. Recent literature on fathers' involvement in childcare has four predominant themes. First, is the assessment of the quantity of men's involvement with children—how often they share in the tasks of childcare, how much time they spend looking after children and which tasks they are most likely to perform. Second, men's experiences of childcare are described, focussing upon how men feel and what they say about being with children. Third, there is a theme which refers to the transition to fatherhood, exploring what it means to men to become fathers and how it affects their lives. Finally, research pursues the difficulties which men face in their attempts to practice fatherhood, and the improvements in social policies which are needed to help them. (See, for example, Lynn, 1974; Macy and Falkner, 1979; Lamb, 1981; Parke, 1981; Beail and McGuire, 1982; McKee and O'Brien, 1982.)

In all of these approaches to the study of fatherhood, the perspective of men is paramount. We learn of men's needs, desires, experiences and problems. Assuming men's right to be fathers, these studies explore what is needed to support and encourage men to practice fatherhood.

The institution of fatherhood, and its relation of authority over mothers and children, is never questioned. Sex stereotypical attitudes are regarded as a mere hangover of nineteenth-century traditions, unrelated to the social position of father. Without checking for evidence, fatherhood is assumed to provide women with support and children with a 'meaningful' relationship. Now and then, a doubt is expressed regarding the consequences for women of men's claim to children, given an increasing incidence of separation and divorce (McKee and O'Brien, 1982; Lewis, 1982a). However, this is no more than a passing reference in an otherwise uncritical stance towards men's rights of fatherhood.

Despite the concern of some of these researchers with sexual equality, there has been little analysis of the politics of fatherhood, and the consequences for women and children. More often the concern is expressed that the experience of men and the status of fathers has been overshadowed by the recent upsurge in feminist studies of motherhood. While the recent wave of feminist research on women and motherhood has helped to redirect our attentions in

studies of the father and fathers attempt to 'balance' research into problems of motherhood, reflects an

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studies of the family, it is significant that studies of men and fathers have followed in its wake. The attempt to 'balance' feminist studies of motherhood by research into the needs, desires, experiences and problems of men, and the importance of fatherhood, reflects an all-too-familiar anti-feminist focus.

There is one fundamental difference between feminist research on motherhood and the recent focus upon fatherhood. This centres on the recognition and analysis of political inequality between men and women. Motherhood studies revealed women's experiences of being a mother in a relatively powerless relation to men in the family, and outside of it. Fatherhood studies do not address the question of power. Different roles or spheres for men and women are perceived, and an interest is shown in extending men's roles or spheres, yet this is approached without addressing the privileges of men or the consequences for women. As a result women's oppression becomes invisible once again while the privileges of men are affirmed and extended.

Specifically, the literature on fathers and childbirth begins during pregnancy. Men too, we are told, become pregnant. Observational studies support this hypothesis with data to suggest that men whose wives/girlfriends become pregnant commit sexual offences (Hartman and Nicolay, 1966), are anxious (Fein, 1974), experience nausea, backache, stomach ache, headaches and toothaches during their 'pregnancy' (Trethowan and Conlon, 1965; Liebenberg, 1969). Within the rubric of scientific investigation, the underlying argument is that fantasies of pregnancy make men fathers.

While the research reports emphasize that fathers 'actively participate during labour', delivery is a bit more problematic. Men, as yet, do not actually give birth. To overcome this problem, it is often suggested, men should be helped and encouraged to take a more active part in the birth process. Beail, for example, tells us:

'One radical innovation being tried out in some American hospitals is to encourage fathers to deliver their babies themselves under the supervision of medical staff. This has not yet been tried out in Britain, but some British hospitals encourage fathers to be involved in a more ritualistic way by cutting the umbilical cord.' (1982: 19).

This ritualistic cutting of the tie between mother and baby reveals the significance given to men at childbirth.

The general assumption about men in the delivery room is that they provide their wives with support. Women giving birth in hospital settings are vulnerable in the face of medical authority and hospital routines. Clearly, they need support. As Lewis (1982a) points out, this need for support has

already been prescribed by the male-dominated medical profession to mean their husbands, rather than allowing women a choice of birth-companion. Studies which indicate women's preference for their husbands to be present 'may simply reflect their preference for having someone (rather than nobody) to give them moral support' (p.68). Further, the support which men offer to women is likely to be both limited and inconsistent, given their concern with their own position as father. Observing fathers at birth, Woollett *et al.* (1982) found that the men largely ignored signs of discomfort from mothers once the child was born, and focussed their attention on the newborn. They suggest that women who have been through childbirth, who share their experiences as women and as mothers, may be better able to provide the nurturance and support which is needed.

The importance of the presence of fathers at childbirth is held to be the promotion of their 'involvement' with the child and the beginning of a 'meaningful' relationship. Involvement is a very loosely applied term to suggest the quantity of childcare that fathers perform. A meaningful relationship implies a close rather than distant relationship. This distinction is implied to be a direct consequence of the quantity of childcare performed. Beyond this, we do not know. The quality of the relationship is not often explored except for what men feel about it.

Because fatherhood is unquestionably taken to be a good thing, even the evidence which might suggest otherwise is skewed to this perspective. The heterosexual family is protected as the ideal. The consequences for women and children are not open to question and are ignored.

The ways in which fathers relate to children stems from their social position in the family. Their privileged status, authority, rewards and access to resources as men, relative to women, allows for a particular form of involvement. They play rather than carry out the more mundane tasks (Clarke-Stewart, 1978; Lamb, 1981; White *et al.*, 1982). They select what they do and the commitment they feel they are willing and able to make; mothers are left with the rest (Holly, forthcoming). They do not come into childrearing as workers, they come in as managers whose decision-making power is derived from the structures of sexual inequality.

The consequences of this type of childcare involvement is, indeed, meaningful for children, for it serves as an example of men's privilege to act in this way. The relation between fathers and mothers provides children with a view of the political inequality between family members. Acting from their position as senior male, fathers illustrate and effect sexual discrimination. Additionally, in the course of fathers' play with children, McGuire observes:

'Play with girls reflected mainly a combination of teasing, allowing aggression in a controlled situation, and demonstrating the father's power and strength. Play with boys was much more 'matey', a 'put them up' situation where two equals could let off some steam together.' (1982: 118).

and further:

'while mothers will play with whatever is around in her joint play, fathers may be more selective, only choosing those items which they personally enjoy in the same way another child might play.' (*ibid.*)

Fathers' involvement in childcare has serious consequences for girls in particular, and also for boys who come to expect preferential treatment for being male. The attempt to promote fathers' rights and encourage men's involvement as fathers, is harmful for both women and children.

This discrimination may begin at birth. Woollett *et al.* (1982) observing fathers' interactions note that fathers react positively to the birth of sons and express disappointment about daughters. Their comments to the newborn proudly affirm male status (father and sons) while they are negative about females (daughters, mothers and others). Patterns of holding, talking and touching are equally discriminatory. White *et al.* (1982) point out that sex discrimination in holding behaviour by fathers illustrates the influence that fathers can have in the first months, even though they remain relatively unembroiled in repetitive caretaking tasks.

The support for fathers' presence at birth and encouragement of their involvement in childcare is based upon an apolitical perspective of family structure. The social position from which each family member speaks and acts is left unrecognised. The rhetoric of mutual parenthood glosses over these political relations, and obscures the effects upon women and children.

CONCLUSION

Attempts to give fathers 'equal rights' take place in a society which actively discriminates against women and in favour of men. Men are constantly ascribed power and rights merely for being born male—the most pervasive inheritance of all. 'Equal rights' in this context means improving the rights and privileges of the powerful (men) in relation to the less powerful and subordinate position of women. This is a step backward on the road to sexual equality. The loss for women and children will be devastating.

Social policies which enhance men's status as fathers, and support their rights to claim children from women, are central to this process. From the

encouragement of men's presence at childbirth to the promotion of the ideology of fatherhood to judicial decisions in the custody of children—men's rights and status are being extended at the expense of women and children.

The British Law Commission's proposal to extend the existing rights of married men to unmarried men has arisen in the context of international governments' commitment to fatherhood and the rights of men. Unmarried men are to be given rights over children regardless of their relationship with the mother. Fatherless families are to be outlawed. Women's choice over how and with whom to have and raise children is to be denied. The structure of our families is to be kept within the rule of men. This is a move which misleadingly employs the language of equality while it directly aids male control over women and children. The reassertion of fathers' rights attacks the autonomy of women and children.

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