

REDEFINING FATHERHOOD by Nancy E Dowd, New York, New York University Press, 2000, 279pp, ISBN 0-8147-1925-2

The question of what constitutes “good (enough) fathering” is one which has, throughout the 1990s, assumed a central importance within a range of conversations taking place around the legal regulation of family practices across western societies.¹

Parenthood is an increasingly important legal status in family law.² For decades we focused on, and scrutinised only the mothering and motherhood side of the parenthood equation. However, as the above quote from Richard Collier reveals, the ‘fatherhood problematic’ has recently taken centre stage in debates about family life and representations of family generally and, more particularly, in debates about the relationship between law and fatherhood. Much of the discussion has focused on the controversial subject of how fathers should and could become more actively involved in the parenting of their children.

Nancy Dowd’s book is an important part of that discussion. The book is a critique of family and fatherhood from a feminist perspective. The book starts with the truism: ‘Fathers parent less than mothers’ (p1). However, the book does more than simply address the issue of how many fathers are invisible or barely visible in the lives of their children. It also explains how the law might have aided and abetted in that invisibility and, in the main thesis of the book, attempts to re-envision or redefine fatherhood.

The book is divided into three quite distinct parts: Contemporary Fathers, Fathers in Law and Redefining Fatherhood. The first part of the book, Contemporary Fathers, sets out the current context of fatherhood. Dowd notes that ‘Fatherhood is a common life experience for nearly all men. Almost 90 percent of men marry, and nearly 90 percent of these become fathers... Nonmarital births account for 30 percent of children born each year.’ (p22 references omitted). She outlines the basic patterns of parenting, the importance of the work-family connection and then explores ‘subgroups of fathers’ namely divorced fathers, black fathers, and gay fathers (ch4). This part of the book emphasises that very few of the fathers discussed actually nurture their children to any great extent. Dowd supports her analysis in this part with the results of statistical surveys. I have had to assume that the statistics related solely to the United States although unfortunately this is not explicitly made clear. This is particularly important for an Australian reader because there are substantial differences between Australia and the United States in relation to many relevant issues including rates of marriage, divorce, ex-nuptial births and paternity acknowledgment, child support policies,

1 Richard Collier, ‘In Search of the “Good Father”’: Law, Family Practices and the Normative Reconstruction of Parenthood’ (2001) 22 *Studies in Law, Politics and Society* 133–169 at 133.

2 John Dewar, ‘Family Law and Theory’ (1996) *Oxford Journal of Legal Studies* 726.

levels of payment, social support and racial makeup.³ Nevertheless, the general concept that fathers' nurturing of children is often limited, both during the parents' relationship (if any) and after the parents' separation, is one that is very familiar in the Australian context.⁴

The second part of the book, *Fathers in Law*, describes the theory and operation of legal doctrines that most directly define and impact on fatherhood (p89). Again this is an overview of American law although the development of the common law which is considered in Chapter 6 has an undoubted parallel with English and Australian history. In each of those jurisdictions, marriage has been the traditional means of linking men to children. Dowd's book demonstrates that marriage remains a central concept in American fatherhood jurisprudence, unlike in Australia where it has generally moved to the legal sidelines. Another distinct point of similarity between America and Australia is in relation to governments trying to promote active parenting by fathers through the use of legislation. Examples in the United States' context include imposing obligations on unmarried fathers for the financial support of their children, introducing joint custody as a preference and the attempts to encourage fathers to pay more child support. Dowd notes that most of these attempts have been singularly unsuccessful in increasing *nurturing* (as opposed to any possible increase in economic support by fathers). She notes that physical custody of children 'is overwhelmingly given to mothers... Over time [fathers] become incidental parents who see less and less of their children' (p152). She concludes that:

Since so much of joint custody is joint *legal* custody, the parenting time of the secondary parent does not increase. Rather, joint legal custody simply increases the amount of control the noncustodial parent has without increasing that parent's nurturing of the child. (p136 emphasis added)

Similarly, in Australia, amendments were made to the *Family Law Act* (1975) by the *Family Law Reform Act* (1995). One objective of the changes was to encourage both parents to remain involved in the care of their children after separation and regardless of their marital status.⁵ However, recent research has found that:

There is no evidence to suggest that shared caregiving has become a lived reality for the children of separated parents who have engaged with the 'family law system' since the coming into force of the *Reform Act*.⁶

3 See for example, Maggie Walter, 'Parental Involvement of Unwed Non-Resident Fathers' (2000) 57 *Family Matters* 34.

4 Australian Bureau of Statistics, *Australian Social Trends 1999*, Catalogue No 4102.0 (1999) at 39–43.

5 Family Law Reform Bill 1994, Explanatory Memorandum, Parliament of the Commonwealth of Australia, Senate.

6 Helen Rhoades, Reg Graycar, Margaret Harrison, *The Family Law Reform Act 1995: The First Three Years* (2000) at 59.

That is certainly not to say that these attempts to 'socially engineer' family life have had no impact.⁷ They most certainly have — some foreseen and others not.⁸ However, although some fathers may have re-evaluated their relationships with their children, in general, the gendered patterns of parenting prior to separation have simply continued.

It is the conclusion that the nurturing role of fathers is not generally increasing that leads to Dowd attempting to completely 'redefine fatherhood'. Her 'new model' (p157) together with the challenges to be overcome is elaborated in Part 3. This part of the book will be the main point of interest for Australian readers given the similar limited caregiving by many fathers in both jurisdictions. Dowd states that 'nurture is the core of fatherhood' and so 'our definition of nurture and our means to accomplish it must be clearly envisioned' (p158). As she rightly points out '[t]he term 'nurture' can be appropriated by any position in the fatherhood debate' (p173). She notes that:

That the question of the uniqueness of male nurture versus its essential similarity to mothering is such a delicate one speaks volumes for the raw nerve of gender. (p173)

Given this, although the author elaborates at some length on the concept of nurture and explains that 'support ought not to be confused with nurture' (p175) and that '[n]urture means care' (p176), it was disappointing that the concept of 'nurture', so essential to the analysis, was still rather unclear to this reader. It is also surprising that there is no reference in the book to the sophisticated discussions which have taken and are still taking place within feminist scholarship about the ethics of care and the differences between caring *about* and caring *for*.⁹

The challenges to nurturing posed by men's work are considered by Dowd. She notes that '[w]ithout significant economic support of families and the reorientation of workplace structures, nurture is difficult if not impossible for most men' (p214). She suggests that: '[t]ime demands must be more flexible on a daily basis, and the sheer length of time worked by the 'ideal' worker must be reduced'; 'periodic time to deal with family emergencies or family demands should also be liberally available'; 'opportunity must be broadened throughout the workplace by achieving gender equality and race desegregation of the workplace' (p224). Concrete proposals to achieve such a utopian workplace are limited, although, to be fair, Dowd does discuss the mixed success of the Swedish attempts to increase family supportive policies (p225) and the need for community-based education strategies (p228).

7 Carol Smart, 'Wishful Thinking and Harmful Tinkering? Sociological Reflections on Family Policy' (1997) 26 *Journal of Social Policy* 301 at 318.

8 Susan M Armstrong, "'We Told You So'... Women's Legal Groups and the Family Law Reform Act 1995' (forthcoming 2001) 15 *Australian Journal of Family Law*.

9 See for example, J C Tronto, *Moral Boundaries: A Political Argument for an Ethic of Care* (1993); C Smart, 'Losing the Struggle for Another Voice: The Case of Family Law' (1995) 18 *Dalhousie Law Journal* 173.

In any event, as Dowd recognises, the ability of legal intervention to change the practices and attitudes of the workplace has to be viewed with some scepticism. This view is shared by other authors. For example, commenting on the European Parental Leave Directive, and other initiatives in England to achieve 'balance' between work and family life, Richard Collier has written, that whilst 'these proposals will be welcomed by large numbers of men', research shows 'a general reluctance on the part of men to change, a reluctance which cannot be reduced solely to the lack of specific provisions for parental leave'.¹⁰ Dowd's discussions of masculinity in Chapter 10 outline in a very accessible way some of the possible reasons for this reluctance. As long as masculinity identifies nurture as feminine and unmanly, nurturing work will not be valued by men (p181). This chapter is also a valuable and reliable overview of the burgeoning literature on masculinity.

I would recommend this book to readers who are keen to see some much-needed debate around the very concepts of family and fatherhood. However, I would caution that I have some reservations about the book in the Australian context. My reservations are in relation to Parts 1 and 2. Whilst eminently readable, a large proportion of those sections are simply an overview of predominantly American literature and legislation. Within that overview, the author seems to be avoiding confrontation and controversy. She describes widely varying views in seemingly neutral terms without ever expressing a really strong opinion (except in relation to domestic violence pp194–202). Given the controversial nature of this subject, perhaps she wanted to ensure that readers on all sides of the debate would continue until Part 3. It is Dowd's attempt to redefine fatherhood upon which Australian readers should concentrate. Even if they do not believe her attempt is successful, they will find it engaging. Her book is further evidence of the energy and vitality that is currently permeating the analysis of family law issues.

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10 Richard Collier, 'Feminising the Workplace? Law, the "Good Parent" and the "Problem of Men"' in A Morris & O'Donnell, *Feminist Perspectives on Employment Law* (1999) at 171.