

Sharing the Children: Brave new world or the Same Old Gender Wars?

Carol Smart

The Morgan Centre

University of Manchester

www.manchester.ac.uk/morgancentre/

The UK context

- Key changes were introduced by the 1989 Children Act
- Removal of concepts of ‘custody’ and ‘access’
- Introduction of a child’s right to contact (not parents’ rights)
- Parents retained same legal position vis a vis children as during the marriage

The aspiration

- To reduce conflict over children by removing them from the bargaining process
- To reassure fathers that they retained their legal status
- To put children's interests first (paramount consideration of the courts)
- To encourage parents to make their own arrangements and not to rely on a judicial decision for their children

Failure?

- Fathers not content
- Conflict not avoided but mostly pushed out of court and into the space of private negotiations
- An increase in Fathers' Rights groups and agitation
- A redefinition of the welfare of the child as almost always meaning generous contact with fathers
- An under-estimation of the significance of domestic violence

Fathers' pressure group



Batman and Robin



Discrimination against fathers?

- A strong feeling 'at large' that there is discrimination against fathers
- No evidence for this in UK
- Our study of 3 different courts in mid 2000 showed that fathers almost always got what they ask for
- Most fathers do not ask for residence so in practice most children stay living mostly with their mothers

BUT ...

- There is still conflict, especially over amounts of access and the question of 50:50 residence
- In UK fathers pay reduced child support if they have the children to stay over a set number of hours per week
- Fathers still feel at a disadvantage – But this is because mothers are still almost always the primary carers of children during a marriage (i.e. they know the children better)

Mothers

- There is no legitimate voice for mothers any longer in the divorce process
- Mother's voice is assumed to be partisan, while father's voice is assumed to express the welfare of the child.
- This is because the judiciary are convinced that children must have a much contact with fathers as fathers themselves want

The problem for mothers ...

Felicity Lessing: Well, that was last summer and we'd had a really big row. It was when he started fighting for having an equal share of the children and I was saying *"Look, I gave up my job in order to be their mother and I do my little bit of freelance to keep ticking over but basically my role is to be their mother. And you've got not only a full time job but various other things as well, you've got a highly successful career and yet you're expecting to have them half the time"*. We really couldn't agree about this and thumped the table and shouted and screamed for the very first time.

Can there be a feminist voice?

- Specific issues such as domestic violence remain significant
- But in general a feminist voice is now associated with being against the welfare of the child as it is now defined

Some of the challenges for feminism

- Refocusing on children and the quality of contemporary childhood
- Being critical of how feminism assumed that children's interests were naturally the same as women's interests
- Standing in the shoes of a child

The experience of conflict

Matt (14): It's just a drag really for me.

Q: ... How do you think [*your mum and dad*] would react if you said 'Can we try something different?'

Matt: I don't know, they'd probably like go mental about the amount of time I was spending at each house. ... I'd just feel under pressure not to say anything. ... They'd fight over every day. ... They argue over like, whoever had had like one *long* day or something. It's just relentless. I wish they would stop it I suppose.

Prioritising parents or children?

Jack (aged 15): They share us half the time. They did that from when they first split up....I think mum wanted to see us as often as she could and my dad has always wanted, thought it was *right* to have fifty-fifty, which in the end she agreed. ... I do actually sometimes feel that I'd rather live at my mum's house most of the time, but I wouldn't really want to, after like spending like half my life seeing my dad, I wouldn't want to just stop now. ... Because well if everything works out, I'll be leaving in a few years, anyway to go to Uni, so there's not much point... ...because I'd feel really guilty and I wouldn't want to hurt anyone's feelings or anything. ...

Emotional Experiences

Q: What's it like when you're going off to dad's?

Alistair (11): Well it depends whether he's been nice to me the week before. Sometimes I want to go but not usually. ... I like mum the most. ... I didn't like it when I was seeing dad more. I never saw my mum at weekends. So I asked for it to change. Now it's much better. Dad used to be much nastier than he is now, especially to mum. He shouts at me, he used to give me smacks a lot, but he's better than he was.

Emotional Experiences

Selina (16): [I]t gets to about five o'clock on Sunday and I get like a really awful feeling and then ... Aah! packing up again ... I don't complain about it. That's just the way it is. There's no *point* complaining about it, nothing's going to change. ... [But] usually on a Sunday around that time ... we're upset because we're having to move and everyone's temper is ... you know, you get quite irritable.

Feelings of loss

Caitlin (16): I think it's very important [parents talking to each other] because, if your parents were like constantly arguing with each other or about each other, you'd feel more like your family had gone. Where as if they are still talking then it's more, you know your family is still there even if they are not together.

Standing in children's shoes

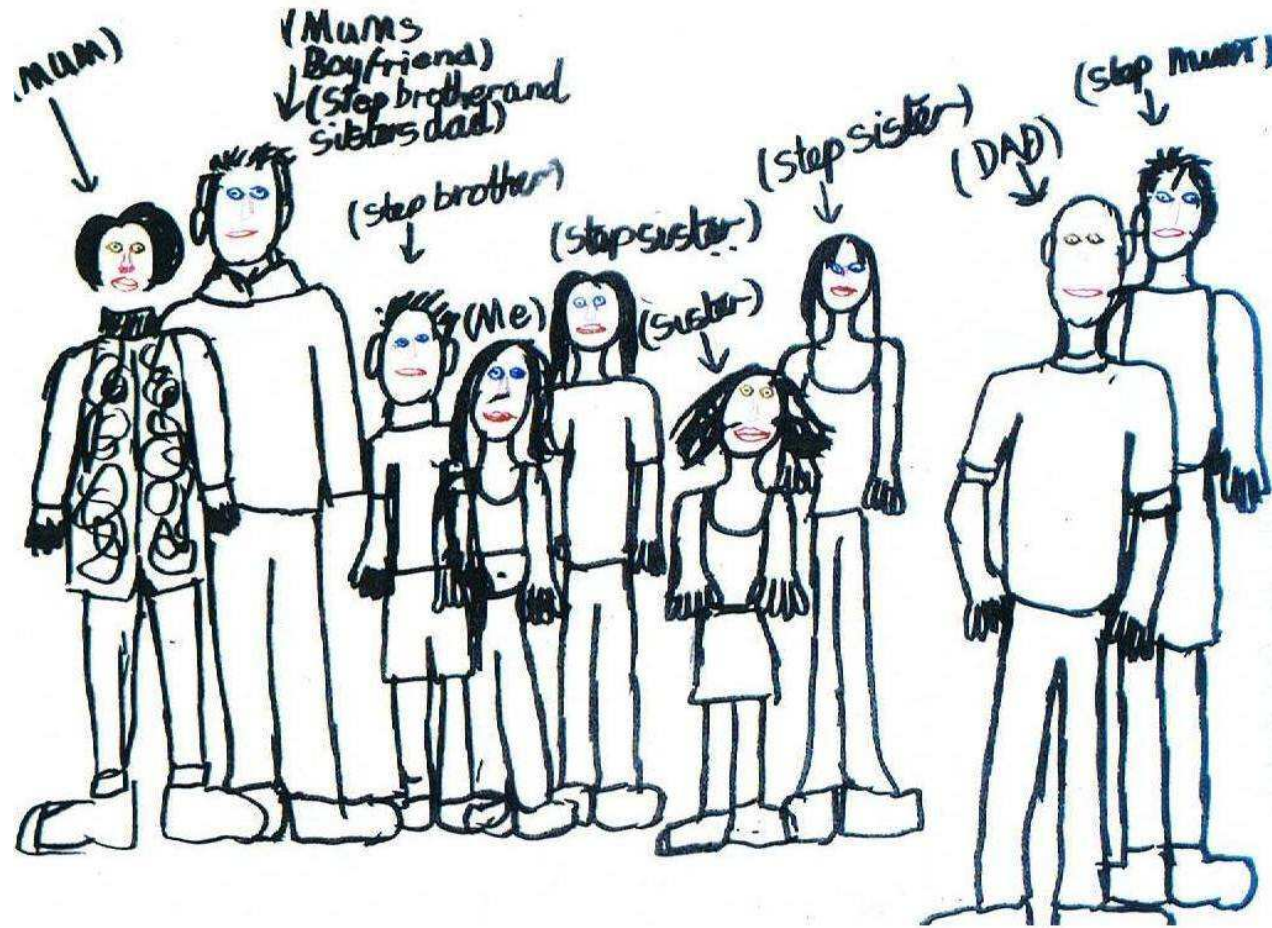
Q: If you had a wish for yourself and your family, what would your wish be?

Frances (12): [That] there was two of me, then I could be with mum and I could be with dad at the same time and I could see my friends.

What can feminism do to rediscover a voice?

- Feminist responsibility for envisioning new forms of parenting (i.e. preparing women for the new 'reality' and recognising where it can benefit them)
- Re-envisioning contemporary childhood
- Continuing to agitate about violence and also women's poverty after divorce
- Campaigning against conflict after divorce by recognising the problems it causes for children

Children's families



Divided Living

