

# Chapter 7

## Divorce, Emotions, and Legal Regulations: Shared Parenting in a Climate of Fear



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### Introduction

Much of the research on divorce and personal relationships has overlooked the role of emotions. The limited research available on the emotional experience of divorce highlights the ways that divorcees are often denied the legitimacy and space to articulate feelings of loss, guilt, and anger, as parents are expected to focus on the best interests of the child (Sclater and Piper 1999; Sclater 1998). In essence, the law is based on the assumption that divorcing couples can side-line their emotions and behave “responsibly” and reasonably when negotiating their divorce. This chapter investigates the lived experience and social relational dimension of fear, as experienced by a sample of separated and divorced parents.

Empirical evidence indicates that the level of post-divorce parental involvement is far greater today than it was in previous decades. Most European countries have adopted a new approach to family law that focuses on both parents (EU Resolution 2079). But can two parents in a conflicted relationship share parenting? What does it take to succeed at shared parenting, and how should each parent involved in such an arrangement behave? Moreover, how do parents manage the transition to post-divorce family life when the legal certainties of rights and responsibilities do not address the uncertainties surrounding their emotional lives? This chapter unpacks how a sample of divorced mothers and fathers who engage in a joint parenting arrangement, but who have little communication with the other parent, experience and manage their feelings of fear. A special focus of this analysis is on the legal framework, and how it shapes shared parenting as well as the experience of fear. I

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This chapter is based on published material in Moore (2017).

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argue that divorcees are subject to manifold life course uncertainties that generate fear and anxieties. The findings presented in the chapter show how a sample of divorced parents manage fear by turning to the courts to solidify their role in sustaining family life. The results also indicate that these parents tend to manage their fear by turning to other experts, such as child and family psychologists, who are expected to ascertain what is in the child's best interest. The findings further demonstrate that mothers' and fathers' experiences of fear are gendered, that fear directs change in post-separation practices of parenting.

The empirical data on which this chapter draws are from Ireland. I argue that the socio-culturally traditional and restrictive legal context of divorce in Ireland frames the level of commitment and emotion work that post-divorce family life requires of parents. While the idiosyncrasies of the Irish context are identified, my conclusions refer to more general ideas concerning emotion work and commitment that go beyond the specifics of the local context. Ireland was one of the last countries in Europe to legalise divorce. I have argued elsewhere (2017: 34) that the timing of divorce legislation in Ireland gave the legislature a unique opportunity to craft a restrictive form of divorce that upholds the sanctity of marriage, but that also addresses three major concerns raised in the international literature on divorce in the early 1990s: (1) the risk of poverty, (2) parental conflict and the impact on the child, and (3) the need to promote and encourage shared parenting and parent-child contact. In 1995, following a second referendum, Ireland opted to permit no fault-based divorce. Previously, divorce in Ireland had been tightly controlled, and the requirements for exiting a marriage were extremely restrictive (Moore 2017). The conditions or grounds for divorce under Section 5 of the Family Law (Divorce) Act 1996 were: (1) separation for four years; (2) no prospect of reconciliation; and (3) proper provision for the children and the other spouse. Moore (2016) argued that the longest periods of actual separation required for divorce are in Ireland, Malta, and Cyprus. Although mediation services have been provided by the state free of charge since 1986 (Conneely 2002: 1), the uptake of mediation among family law disputants remains low (McGowan 2018). The data on which this chapter is based reveal some of the practical effects this restrictive legislation has had on family relationships. However, in May 2019, another referendum was held on the question of whether the required waiting period should be reduced to two years. An overwhelming majority (82%) voted in favour of amending the law, and it may be hoped that the new legislation will greatly improve the lives of children and divorcees by reducing the trauma caused by protracted family law proceedings.

## Theoretical Considerations: Joint Parenting and the Responsible Divorcee

Joint parenting is approached differently across countries. Some countries have adopted a case-by-case approach, and hear the views of the child in court proceedings before ordering a joint parenting arrangement. In other countries, shared parenting is the default arrangement. The two main focal points of the body of research on joint parenting are: (a) the recognition of a pro-contact culture, and (b) the quality of the relationship between the parents that is necessary to facilitate joint parenting. Scholars in the UK (Trinder et al. 2002), Australia (Rhoades 2007), and the US (Bauserman 2002) have shown that a pro-contact culture has been emerging in which children are given the right to contact with both parents. In the UK, the terms “custody” and “access” have been abolished, as they were linked to the idea of winning and losing children. According to Smart and Neale (1999: 38), the term “access” was seen as giving too much power to the parent with whom the child lived, while diminishing the role of the non-resident parent. It was hoped that awarding joint custody to both parents would encourage both the mother and the father to feel “concerned and responsible for” their children, and would help to reduce conflict. Sclater (2003) observed that lawmakers hoped that this approach would persuade fathers of the benefits of joint parenting, and encourage them to remain involved in the lives of their children after separation. Mahon and Moore (2011: 30) argued that the focus on both parents constituted a new approach to family law in most countries.

Having recognised the fragility of adult relationships in contemporary society, lawmakers shifted the focus of family law away from spouses and towards parents by affirming the paramount importance of the welfare principle in the Children’s Act 1989 in the UK and the Guardianship of Infants Act (1964) in Ireland.<sup>1</sup> This principle states that in the event of a custody or access<sup>2</sup> dispute, the welfare of the child is paramount, and will form the basis of all decisions relating to his/her upbringing. The encouragement of parent-child contact post-divorce became a dominant issue in law and in policy in the UK and Ireland.

Written from the perspective of the child and not the adult, these laws state that is the right of each child “to know and be cared for by his or her parents” (UN Convention on the Rights of the Child, Article 7, paragraph 1) and to maintain a personal relationship and direct contact with both parents on a regular basis (UN Convention on the Rights of the Child, Article 9, paragraph 3).<sup>3</sup> Thus, the parental relationship with the child is clearly affirmed in policy and in law, even when the

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<sup>1</sup>The Children Act 1997 section 9 introduced section 11A into the 1964 Act, which declares that a court in making an order under section 1 may, if it thinks appropriate, grant custody to the father and mother jointly.

<sup>2</sup>Whereas in the UK, the legislature (1989 Act) abolished the terms “custody” and “access” in favour of “residence and contact”, these terms continued to be used in Ireland.

<sup>3</sup>The UN Convention on the Rights of the Child was ratified by Ireland in 1992.

relationship between the parents is legally terminated. As earlier studies on the impact of divorce on children found that the children of divorced parents are often exposed to parental conflict, and that contact with both parents is frequently disrupted, policy-makers became increasingly concerned with addressing these issues. The legal response was to support father-child contact, with courts in the UK and Ireland encouraging such contact (Smart et al. 2003; Mahon and Moore 2011).

Research on the quality of the parental relationship was also at the forefront of policy and the legal discourse on joint parenting. There appears to be general agreement in the literature that the relationship between the separated parents is a key determinant of whether joint parenting succeeds. Divorced parents frequently report having medium to high levels of conflict with each other, particularly with regard to contact issues (King and Head 1999). It has therefore been pointed out that parental relationship quality can seriously affect contact post-divorce (Braver and O'Connell 1998). Opponents of shared parenting argue that such an arrangement can disrupt the stability of a child's life, and can expose the child to ongoing parental conflict (Rhoades 2007). Although high levels of conflict are not always associated with low levels of contact (Wolchik et al. 1996), contact is generally found to be more likely if the relationship between the parents is positive (Bradshaw et al. 1999; Simpson et al. 1995; Smyth et al. 2001).

There are social and legal expectations that mothers and fathers will be responsible divorcees. For a mother, this means that she should encourage her child to have contact and a relationship with the father. Kaganas and Day Sclater (2004) observed that parents often have to position themselves within a range of competing legal, welfare, and human rights discourses; while coping with the personal pain that comes with the breakdown of a relationship. As the legal arena does not deal with the emotional side of divorce, parents are expected to behave as responsible divorcees; i.e., they are expected to behave as rational, altruistic actors, regardless of the emotion work required to manage multiple relationships. A decrease in hostility and the encouragement of joint parenting are crucial "building blocks" for creating an environment in which the welfare of the child is prioritised (Smart and Neale 1999). Joint custody and shared parenting is promoted because retaining contact with both parents protects the welfare of the child. Parents are expected to put aside their personal hostilities and continue communicating and cooperating as loving parents, and thus to manage the emotions involved in shared parenting. However, there is very little literature on how parents experience emotion work in relation to divorce, and specifically in relation to joint parenting. Collier and Sheldon (2008) pointed out that having an appreciation of the emotional context (of disputes) is critical to the development of effective interventions. Disputes over contact may be evidence of the inability of the parents to play the roles of rational, settlement-minded, and altruistic actors in the "new democratic family". Emotions cannot be ignored in the hopes that the parents will somehow become rational actors. Understanding the emotions divorcing parents experience, and recognising the emotion work required of the parents in a divorce, are crucial when seeking to resolve disputes and to provide support for divorcing parents.

Relative to this extensive literature on joint parenting and parental conflict, the body of literature on how parents manage this transition to becoming a responsible, post-divorce parent is much smaller. In contemporary society, “good mothering” is generally understood to be child-centred and time intensive (Hays 1998). However, the model of good mothering in the context of divorce is less clear. Smart (1999) argued that good mothering is even more difficult to achieve in a divorced family than in a nuclear family, and that mothering or fathering in an “intact” family is poor preparation for parenting after a separation. For example, after a separation, the mother may be expected to trust the father to share in the care of their children, even though she remains ultimately responsible for a range of childcare tasks. A good divorced mother is also required to support the post-separated father in his attempt to carve a new dyadic relationship with his children. Thus, a divorced mother may have to “dislodge” herself from her core identity as the primary parent if there is a shared parenting arrangement. Within this context, the mother is made to believe that being a good divorced mother entails facilitating paternal involvement at all costs. Smart (1999) pointed out that after a separation, the previous primary caregiver is often still financially dependent on the other parent, but may derive fewer benefits from the workplace (including from social networks), and is usually compelled to seek part-time employment, often after a long absence from the workplace.

A father, on the other hand, may also have to work at post-divorce fathering in ways that force him to renew his relationship with the mother of his child, while simultaneously terminating his relationship with his ex-wife. As a father’s relationship with his child is often centred around and negotiated by the mother, a poor mother-father relationship post separation will result in a poor father-child relationship. Mothering and fathering in a family – regardless of whether the family is “intact” or divorced – imposes a particular form of family life on men and women, whereby neither the mother nor the father can be considered an individual engaged in the self-interested pursuit of gain.

In this chapter, I examine the gendered experience of and the management of emotion in shared parenting arrangements. I have chosen to focus on the experience of fear for three reasons. First, there is little research on the emotional experience of divorce, and particularly on how it is shaped by the legal system. A second and related motivation is that there is a lack of knowledge about how fear is experienced and how it is gendered; i.e., whether men and women experience fear for different reasons. Third, I anticipate that these findings will be applicable across many jurisdictions, given the popularity of joint parenting principles and the existing evidence on the gendered experiences of caring for younger children. In particular, I focus on the following research questions: How do parents manage the transition to responsible divorced parenting? How do they manage their feelings when they are expected to focus on the best interests of the child?

## Methods

The findings in this chapter are drawn from the author's book on divorce, families, and emotion work (Moore). The book is based on a longitudinal qualitative study of family practices post separation in Ireland. The main body of the research was based on qualitative interviews with a sample of 39 separated parents and ten family lawyers in 2008, and follow-up work with 19 parents in 2014. The sample of 39 separated and divorced parents, including 18 fathers and 21 mothers, were recruited through family law solicitors who work with private and legal aid clients. All of the parents in the sample were white, middle-class men and women with tertiary education. The only criteria for selection to participate in the main study was that the participant had to be a parent, and he or she had to have been separated for at least one year. The sample suffers from a number of limitations that readers should consider when interpreting the findings. Due to the highly selective social class and ethnic composition of the sample, I was unable to explore the relationship between social class, ethnicity, shared parenting, and emotional experience. Moreover, it may be assumed that compared to the median family income in Ireland, the participants in this sample had more joint and individual assets and higher total household income levels, and thus were better able to set up two households post separation.

A university ethics committee approved the study before interviewing commenced in 2008 and 2014. All participants consented to having the interviews recorded, and the duration of the interviews ranged from 90 to 120 min. The author adopted a largely open-ended, exploratory approach for large parts of the interviews. The aim was to cover aspects of the participant's marital relationship, divorce process, and financial and parenting arrangements post separation/divorce. The data were analysed using typologies that helped to describe and explain the different family practices that developed post separation. The parents were divided into four groups: egalitarians, dependents, deserted wives and excluded fathers, and conflicted couples. Several dimensions were used in the designation of categories, such as the ages of the children, the time since separation, the type of household income during the marriage, and the type of settlement reached (for more details, see Moore 2017: 8). This chapter is based on the experiences of the "dependents". It focuses on the findings of in-depth interviews with eleven parents about their experiences of judicial separation and divorce, and, in particular, about their experiences of being fearful of the consequences of their former spouse's actions. In each of these cases, the parents had a joint parenting arrangement that stipulated that their children were to stay overnight with both parents (at least one weekday overnight stay and one weekend overnight stay), but there was little direct communication between the divorced parents. The parents had to use solicitors/the courts to settle disputes and agree to a parenting arrangement. Table 7.1 describes the sample. In 2008, when the initial interviews were conducted, all of the parents were in their late thirties or early forties, and most had young children, including at least one child aged ten or younger. In the vast majority of cases, the father was the main breadwinner and the mother worked part-time while they were married (the household type of each

**Table 7.1** Sample characteristics of dependents

Name	Age	Age of children	Length of marriage	Time Since separation	Household type	Settlement <sup>b</sup>
Josh	43	9, 5	11	5	One and a half	Solicitor
Cian <sup>a</sup>	42	15, 12, 6	10	6	One and a half	Solicitor
Rob	39	6	10	4	One and a half	Solicitor
Eoin	41	12, 8	12	5	One and a half	Solicitor
Ciaran <sup>a</sup>	37	7	6	6	Dual income	Solicitor
Larry <sup>a</sup>	45	20, 16	12	6	One and a half	Solicitor
Mike	45	17, 15, 12	12	8	One and a half	Court based
Peter <sup>a</sup>	52	20, 15	13	7	Dual income	Solicitor
Mairead	42	17, 15, 12, 10	13	6	One and a half	Solicitor
Maria	39	14, 11	12	5	One and a half	Solicitor
Aine	52	18, 16, 10	18	12	One and a half	Court based

Notes:

<sup>a</sup>The following participants did not participate in the follow-up interviews in 2014

<sup>b</sup>The research differentiated three types of settlement reached: namely, (1) mediated, (2) solicitor-based (including “on the steps of the court”), and (3) court-based (adjudicated). Although additional applications were made by the participants (e.g., applications for discovery, relocation, interim maintenance, interim access) the settlement reached in this table refers to the separation or divorce settlement only

participant is shown in Table 7.1). Therefore, most of the mothers had been financially dependent on their former spouse while married, and continued to require financial assistance after the marriage ended. The parents had been separated approximately 4–12 years prior to the interviews.

## Results

### *Post-separated Fathering, Mothering, and Fear*

In the interviews, the dependents described their marital breakup as fraught with conflict from the beginning. In the following, I will concentrate on how the uncertainty surrounding housing, childcare, and financial arrangements generated fear during this extended period of uncertainty. The fathers reported being fearful of

losing their father-child relationships and their place in the family. The mothers expressed fear about the anguish their children were experiencing, and about the financial costs of separation. Among the dependants, there were parents who remained (or attempted to remain) in the family home until a settlement had been reached, saying they were unwilling to move out for financial reasons and/or because they had been legally advised to remain in the family home. There were also mothers and fathers who did not remain in the family home following the decision to separate, as they had either been asked to leave the home by their former spouse or felt compelled to leave the home because of the misbehaviour of the other spouse. During this period of uncertainty, which lasted up to three or four years in most cases, financial and contact arrangements were not fixed.

The interim period was particularly complicated due to the multitude of changes that occurred in the spousal relationship. For couples who were unable to agree on interim parenting, financial, or housing arrangements, the period before such arrangements were formally regulated was characterised by uncertainty. The longer it took to formalise these arrangements, the longer the family members were held in a state of prolonged ambiguity. This uncertainty increased the level of emotional intensity that remained in the relationship with the former partner. The perception that these parents had of lacking control over their life, especially with regard to their parenting, was bound up with intimacy issues and power relations. Contact with their children during this period was unsatisfactory. For one of the fathers who continued to live with his child, the quality of the access was affected by the hostile environment in which it took place:

But it was difficult as there were rows in front of Clara; well it became too much. I couldn't handle it. I couldn't take it. It wasn't good for anybody.

The parents who said they were asked to leave the family home or who felt compelled to leave the family home reported having restricted access to their children after moving out. This experience of having access restricted precipitated fears about losing contact with their children. None of the participants in this group had experienced the complete removal of access to their child, but many had lost some or a significant degree of access, and many more were haunted by the possibility of losing access in the future. None of the participants suffered from this fear more than a father in his thirties, whom I will call Rob. Rob told me that his ex-wife constantly threatened to remove his access to his children after he left the marital home:

And you have to go and do it, and I left home, and that is when access to Mary stopped, you know. That was it, and that was part of my thinking, that if I walk out of here that I may not get to see Mary again.

Another father, Josh, described how threats and tensions played out in more subtle ways that stopped short of making him afraid, but still made it difficult for him to rely on and trust the co-parental relationship:

Well, as I said, it got very serious, and my ex-wife threatened to take the kids away from me. But I just can't see her doing that; I know she couldn't do that. I think she just needed to let off.



One father explained how he was informed that his ex-wife was applying to relocate to another part of the country and to take the children with her. The courts are favourable to fathers, especially “in the circumstances where both parties are co-parenting and where the child is so happy and supported, the court would need serious proof that the welfare of the child would benefit from a move overseas”, as one High Court Judge explained (Mahon and Moore 2011: 75). The father in this case, Cian, said that he couldn’t believe that his ex-wife would be permitted to relocate, and sought immediate help from the courts. After a protracted battle, which took place before the couple were legally separated, the father won his case and the children and the former spouse did not relocate. Reflecting on this experience four years after the event, Cian said:

My ex-wife’s view of life was that I was taking her to court. How dare I take her to court? What had she done to deserve to be taken to court? ‘You are taking my children away’. So, I said you know they are my children too.

The experiences reported by the participants highlight the lack of control fathers typically had over access to their children during this interim period. My interviews with solicitors also supported this finding. One solicitor explained how she managed this fear in her interactions with her male clients:

Where they have this fear that they are going to lose their children, and when you explain to them, look, you will retain joint custody but being realistic, you’re telling me that you work and travel abroad and you work till seven o’clock every day; I mean realistically can you pick up a five-year-old at seven o’clock and do you think it is wise that you take the child overnight during the week when they are at school and so on, and most of those parents come around very quickly. It sounds – I don’t mean to use language that implies that I am persuading them – but it just kind of, when you shine that light on the situation for them, they then are more practical themselves, whereas they come in very worried and defensive, I suppose about themselves, like ‘I am a good parent and I don’t want to lose my children’ but then you explain: ‘Well this isn’t a criticism of you and you are not losing joint custody but at a practical level, for your children and yourselves, it is impossible’. And I think they then see that very quickly and can live with that.

Some of the mothers in this group said they were afraid that access was detrimental during this period, as the young children in particular were upset about leaving their primary carer. One of the mothers explained her actions by saying that she was putting the safety and well-being of her child ahead of the needs of the father:

I mean the little one was, my baby was three and my ex had worked away an awful lot – Monday, Friday, Wednesday, Saturday – so she had to be physically pulled out of my arms to hand to him. It was a fucking nightmare.

While the mothers said they were not against father-child contact, they indicated that they were unsure of how the younger children were managing the contact in the period immediately after the separation, especially if the children had never spent much time with their father. Maria talked at length about the emotional pain of witnessing her daughter’s anguish when she spent nights with her father, which induced in Maria a sense of powerlessness over her mothering role:

There was a period of about two to three years where I was, although I said okay in the beginning, and then I was constantly trying to pull back from that arrangement, but every time I said I would, he said he would go to court.

Maria undertook a considerable amount of emotion work in facilitating access even when she could see that her children were upset:

They were upset and tired but there were lots of tears and hysterics, and I knew things weren't right because my daughter would often be upset with tummy aches in the mornings going to school; didn't want to go to school; didn't want to be separated from me.

The emphasis on constantly listening to and observing her children demonstrates Maria's approach to parenting, which is focused on working with her children in order to understand their feelings. Maria's "better judgement" was derogated, and her role as the primary parent was undermined. She had to manage her feelings and suppress her frustration with the father's insistence that it was not only in the children's best interests to spend nights with him, but that it was his right to see them; and with his threats of legal action. She felt compelled to facilitate her ex-husband's new involvement in parenting. Maria's need to manage the feelings that came up in her interactions with her ex-husband continued over a longer period of time. At the time of the second interview, which took place five years later, in 2014, Maria had just received a "nasty" email regarding the holiday arrangements. She reported feeling frustrated that her ex-husband was trying to control how she parented, and was preventing her from attending to the needs of the children:

He was adamant that they would never be allowed near a therapist, I mean, even now, I would have had to go court to get them in to see a child psychologist, which is what I wanted to do. ... [I was] so upset, and then it follows me around emotionally for days and I won't sleep for a few nights because I'm just so upset that somebody who would be co-parenting with me would not recognise that their child needs support.

For Maria, the question of why her ex-husband was not intuitive about the feelings of their children continued to frustrate her, especially given the time and energy she had devoted to developing maternal thought. According to Maria, her ex-husband lacked the awareness or the intellectual capacities that make up maternal thought. In her view, parenting involves not just having contact and caregiving, but monitoring the children's psychological needs and organising resources to meet those needs. Thus, Maria's notions about how the interests of her children would be best served clashed with those the children's father, and this conflict continued long after the separation. But Maria feared her ex-husband; he intimidated her because she felt threatened by an external authority (a court-appointed child psychologist) who could review the quality of her parenting, and who might undermine her maternal judgement and her entire identity as a competent mother.

Maria wanted her ex-husband to respect her caring work, and her opinion of what their children needed. She felt undermined and oppressed by his stance, and by the prospect that she could be held accountable by a court-appointed child psychologist. How did Maria resolve this problem? She said that she came to recognise the change in the fathering role her ex-husband took on following the separation, but added that she did not approve of the quality of his parenting.

I mean in the sense, he is actually a much better father since we split up because he will always have a fear about losing the children if he messes up, or slips up, so he did almost always turn up to pick them up, you know, make arrangements. I think he is far more involved since the separation, that remained the case. ... I mean I think...lots of people look at him and see a very devoted father. Lots of people who we know sort of...at an intermediate level rather than very close friends, they, they think he's just a great dad. Because he's really done stuff with his kids.

Maria acknowledged the work pressures and the responsibilities associated with providing for the family that her ex-husband faced, but said that this recognition and appreciation was destroyed when she found out that he was avoiding his financial responsibilities. Maria described how her ex-husband tried to control her and assert his authority over her by withholding child maintenance payments:

Maintenance was always an issue. I think looking back at it now, it was his hold on the situation, and why he actually didn't want a legal agreement. He was constantly threatening to cut it (maintenance) off or cut it back and that was a common part of the arguments, so that was his way of keeping a hold on the situation...and he was the one with the money and power in that sense, and I think he used it.

In what I have called paternal banking (Moore 2012) practices, the father, as the primary breadwinner, often has the power over the family's financial resources, and can threaten to withhold support from the mother at any stage before the arrangements are formalised. A threat to cut off the mother's income is an indirect way of exercising control over her, especially if she is dependent on the father, and has little or no access to her own financial resources. Mairead talked about how her ex-husband paid the maintenance weekly as a means of exercising control over her role:

I mean I never asked for maintenance for me, it was all just for the kids. He just kept paying that amount and he would pay weekly. He never paid it monthly because it's a control thing.

Disputes over child maintenance were often entangled with arguments about the father's commitment to his children. What the mothers in these cases were pointing to was that the father had little real commitment to his children, as he was not properly providing for them. Some viewed the father's care in terms of involvement and continued breadwinning, and thus saw child maintenance (alimony) as a currency representing commitment. In these cases, disputes over maintenance and costs continued to be an issue even twelve years after the separation. These parents had not learned to work together within their marriage, as they controlled separate spheres of marital and family life. Following their separation, the parents were expected to work together, albeit separately, to coordinate parenting across two households.

### ***Legal Regulation as a Lifeline***

In disputes over access to their children or maintenance, hope often arrived in the form of the legal system. Both the mothers and the fathers in this group reported clinging to the legal system almost like a lifeline, as they saw it as a means of

asserting control over their role in the family. The parents in this group needed legal support to negotiate financial and parenting arrangements, and to avoid direct conflict with their former spouse. The majority of these parents did not end up in court. Instead, they agreed to a settlement either on the steps of the court, or through the help of solicitors. Most family law litigation ends in settlement (Coulter 2009). However, the settlement may not be achieved until late in the process; sometimes on the steps of the court and after a lengthy adversarial battle. One solicitor explained how s/he experiences and manages parents' expectations during the first encounter:

It is the most difficult...the parents encounter when their relationship breaks down and it's the one where they really want the comfort at the beginning, you know, and does this get any better, and what is the norm and what should I agree, what's there? You will have people saying, what's normal? What would you say? Fathers will often say ...for a father who isn't the primary carer to have, and I would say, well, there is not a norm; it's what is right for you and your family and what you can commit to, so why don't you tell me who can pick the kids up from school. If you are not able to do it, if you are abroad a lot, there is no point in saying that you are going to have them every weekend, you know.

In all cases in the sample, the father was eventually able to set up a second home. The men were generally able to obtain a mortgage based on their salary, and after having been awarded approximately 20–30% of the value of the marital home. Most of the fathers reported that were able to cut their ties to their former spouse by giving her the majority share in the house in lieu of providing spousal maintenance. In all of the cases, the fathers were paying child maintenance and covering their children's educational costs. The terms of some of these financial agreements created longer-lasting ties between the former spouses, as Cian described:

Well the house is yours [wife] but if you ever sell it, you need my permission and I want 25 percent of the proceeds. So, the house is yours for the rest of your life as long as you want to live there but if you ever try and do anything funny, you're not going to walk away with all the embedded equity in the house.

In some cases, this kind of financial agreement allowed the father to reconcile the need to provide financially for the family and to ensure that the children's best interests were served by allowing them to remain in the family home, while also retaining his fair share of the matrimonial home. While this form of control was not exercised by all of the men in this group, it demonstrates that in some of the divorced couples, the parties remained financially connected after the end of the marriage. The participants reported other ways in which the father managed the financial arrangements so that he had more control over his children's lives. Rob said that he was satisfied with his financial settlement because it allowed him to control the educational expenses of his daughter:

I look after her education, which I wanted to because, I just wanted to have control over her education; plus I pay ongoing maintenance.

Most of the fathers said they were more than willing to pay maintenance after an agreement was reached through the courts. However, many of the fathers reported that they faced difficulties in seeing their children regularly even after a separation agreement had been reached, as they perceived that their ex-wife continued to exert

control by dictating when and how they could see their children. Although contact had been agreed between the parties, Rob explained that having flexible arrangements was unhelpful, as he and his ex-wife were unable to agree on the dates or times:

It wasn't sufficient access, more correctly, it was down as 'every second weekend' and the phrase, you know 'in such way as the parties should agree between themselves' it will be 'shared' and in such way the parties agree themselves, the parties couldn't agree the day of Christmas, let alone share the child's time – so that was impossible, so the one thing that just needed to be tightened up...

One father, Ray, highlighted the problems with vague arrangements, such as an agreement that the father would have access from Friday to Sunday. He described the issues that had been clarified in making such arrangements:

But no room for interpretation is the easiest thing up front...Friday to Monday, now what is Friday, is it 3 p.m.? I pick her up from school? Where do I pick her up? Is it regardless of sickness?

The fathers in this group reported facing ongoing challenges in maintaining access to their children. Ray, who described the emotion work involved in constantly negotiating arrangements, said he was trying to defend himself against the unspoken messages underlying these challenges, and the devaluation of his role as a father:

I didn't know how to fight against that until it got to, and you are in a vulnerable situation until you get to a point where, well actually, if a child is sick you are more capable of looking after her so that is not a valid excuse.

Most of the fathers in this group said that their ex-wife continued to control when and how they saw their children. None of the mothers reported that they had been denied contact, but they all described experiencing ongoing difficulties with contact during this prolonged period. In most of these cases, the issues were settled, and the parents stuck to a fixed arrangement. These findings suggest that the system for ensuring steady contact is far more likely to fall short than the system for ensuring that maintenance is paid.

## **Concluding Discussion: Managing Fear and Joint Parenting**

The parents whose experiences were described in this chapter were deeply fearful of losing their role in the family, and they were deeply insecure about the future of their personal relationships and financial well-being. They reported being unable to reach a parenting or a financial arrangement following the breakdown of their marriage, and relying on others to secure a satisfactory arrangement. The expectation that parents who are separating will be able to reach a satisfactory separation agreement that deals with all of the relevant legal, financial, and child-related matters lies at the heart of these experiences. When parents are unable to reach an agreement,

they often report that they are feeling worried that their personal life is out of their hands, and that they are experiencing a great deal of fear.

The emotion of fear was expressed by all of the mothers and the fathers in this group, although the level of fear they said they experienced varied. When people are fearful, they are usually afraid of losing something they cherish because some other human or institution is blocking them from achieving their goals (Burkitt 2002). Contrary to previous reports that men are fleeing from commitment (Ehrenreich 1983), the fathers in this sample reported getting involved in caregiving in a context in which they were “outside”, and trying to carve out a space for themselves in order to improve the quality of the father-child relationship. Scholars (Philip 2013; Simpson 1998) have argued that the fear of losing contact with a child often leads separated fathers to realise where their interests lie. As these fears reflect their vulnerability in the relationship, fathers frequently say that they are trying to change and to become more involved in parenting. It is for this reason that fear has special relevance when seeking to understand the changing practices of fathering.

The mothers in the sample reported that they continued to have the main responsibility for caregiving in a context in which their maternal judgement was being called into question both publicly and privately. Both the mothers and the fathers said they were afraid of losing their stronghold within the family. Resonating with existing research, some of the mothers said they felt “dislodged” (Smart 1999: 109): “when a father becomes more of a father, a mother becomes less of a mother”. In light of these findings, it is important to ask why there appears to be a culture of fear following the breakdown of a marriage, and specifically among this group of parents for whom dependence is an issue. Both the mothers and the fathers in this group of parents expressed a firm commitment to parenting and to being involved with their children. Although the legal system has facilitated the involvement of the father as a provider, it cannot protect the quality of the father-child relationship, and it currently does not facilitate or protect the intimate ties between a father and his children. The legal system and the legal professionals within it add to this climate of fear by creating a mystique around the courts and uncertainty surrounding judgments and court processes. It is important to note that at the time the parents in this sample were separating and divorcing, there was a long-standing *in camera* rule that prohibited researcher access to family law courts. A reform of this law (Section 40 (3) of the Civil Liability and Courts Act 2004) has improved access for researchers, but the initial reports of what goes on in the courts did not start emerging until 2006.

Institutions such as the law and family therapy provide a framework of expectations of “futuraity”. When these institutions that govern relationships become unreliable or have a weaker hold over personal relationships, the emotions of the parents tend to guide their actions, and conflicts ensue. The dependents indicated that they enabled and constrained the actions and the movements of the other parent, but they also reported influencing the emotions experienced by the other parent. Burkitt (2002: 152) argued that emotions are an active response to a relational context. In this setting, the dependents’ power rested in the threat of the withdrawal of financial support or of contact with the child. While all of the parents downplayed the power they had *vis-à-vis* their former spouse, they were often more powerful than their

former spouse in conventional ways. By engaging in maternal gate-closing and paternal banking strategies, the dependents defined the parameters and the nature of their new relationship, and, in the process, the type of conduct they wanted to elicit from their former spouse. Ironically, the parents tried to manage their fears by turning to the courts to solidify their role in family life or to secure financial protection. They also attempted to quell their fears by turning to other experts, such as child and family psychologists, who were expected to ascertain what was in the child's best interests, and to support the co-parental relationship. Engagement with the legal system may have helped these parents offset the power relations that existed during the marriage, but they eventually came to realise that even the courts and the legal system could not ease their fears.

As Barbalet (2001: 160) has argued, a shift in power relations – for instance, when there is a relative decline in the power of the expert mother accompanied by a relative increase in the power of a newly involved actor, such as the court or a family therapist – is likely to lead the mother to fear that her position is in jeopardy, and may lead her to put in place new, constructive arrangements that were previously absent. In other words, a parent may be willing to compromise if s/he is faced with the fear of losing more than s/he is comfortable with losing. The fear that the mother experiences in this context leads to change. Not all experiences of fear lead to such changes, but this dynamic was observed among the sample of “dependent” parents discussed in this chapter.

These parents explained that in order to manage their own individual emotions of fear, they needed the support of others, such as lawyers, therapists, and family members. The sources of these fears lie in the structural inequalities of power that create vulnerabilities for both parents. My analysis has revealed that the structure of joint parenting laws and norms frame these emotions, and that parents engage in emotional power games as a way of protecting their sense of control during a period characterised by great uncertainty and potential loss. Although the social structure of the legal system can create feelings of security for parents, particularly for mothers seeking financial compensation, the uncertainty surrounding the legal system creates feelings of fear, which may push some fathers to accept the status quo, while encouraging others to fight against it. Mothers may also be fearful losing power if their actions are evaluated by outside legal or psychological “professionals”, and these authorities enforce changes in their parenting. It appears that the parents profiled in this chapter managed their feelings of fear by developing new ways of parenting together with their ex-spouse. Thus, new parenting practices may reduce the threat posed by the other, and could shift power relations to remove the feelings of fear. This research on separated fathers' and mothers' responses to fear represents an important addition to sociological accounts of changes in family practices that have previously been overlooked. Further research in other contexts that have a longer history of divorce, and that are more ethnically diverse, could help to tease apart some of the idiosyncrasies of the Irish context.



**Acknowledgments** The research was funded by the DST-NRF Chair in Customary Law, Indigenous Values and Human Rights. The opinions, findings, and conclusions expressed in the chapter are those of the authors alone, and the NRF accepts no liability in this regard.

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