

## Family: is it just socially constructed or a natural phenomenon?<sup>1</sup>

by Brenda Almond

### Introduction

It is hard to deny that essential attributes of the family are currently under challenge in many Western countries today. It was for this reason that in my recent book, the *Fragmenting Family*, I offered a defence of the traditional family, understood as a natural biological phenomenon. I also argued there in favour of marriage as an institution that is important, if not essential, for the welfare and continuity of families. These arguments were put forward from a philosophical perspective which relied simply on reason and morality rather than on religion or authority, because I think that most people, whatever their personal religious views, can come to recognize the social value of solid family life if they think the matter through carefully enough. Of course, this involves making some empirical claims, but there is a powerful body of social science research that supports the view that married parents offer youngsters the best opportunity for a happy childhood – standard measures are health, how they do at school, contact or not with crime or drugs, their likelihood of suffering abuse or violence, or even a simple measure like their chance of being excluded from school.<sup>2</sup> And this child-centred starting-point, it seems to me, is the right way to look at the issue of the ‘family’ rather than focusing just on what adults might feel entitled to, or want for themselves.

The family, though, is no longer flourishing, and the reasons for this are not easy to pin down. A whole range of contributory causes seem to be involved, legal, social, scientific and economic: changes in marriage and family law, government economic and welfare policies, and scientific and medical advance, especially in the area of the new reproductive technologies. There are also more deeply philosophical influences. Indeed, it is possible to find the roots of some of today’s personal struggles in the tension between permanence and flux recognised from ancient times. For it is that same tension that lies behind the life-style choices people make today – some people seeking continuity in their personal lives, others opting for change. For those people for whom stability in relationships is a central need, the family is one of the few ways they have to break down the solitude, the pure atomicity, of an individual life. Of course, people can find their lives disrupted not by their own choices, but by the decisions of other people whom they trusted, or by natural intrusions such as illness or death. The consequence can be loneliness, mental breakdown, or illness brought on by the collapse of the network of dependency.

---

<sup>1</sup> This talk is a shorter adapted version of my paper ‘Family: social construction or natural phenomenon?’ published in *Studies*, vol. 97, no. 385, spring 2008. pp. 29-43.

<sup>2</sup> Children involved in family breakdown are: 75% more likely to fail at school; 70% more likely to be involved with drugs; and 50% more likely to have alcohol problems. For a summary of research on the social benefits of marriage see *Every family Matters* Family Law Review group: The Centre for Social Justice, London, July 2009, pp. 56-59. These children also constitute the majority in refuges for children who have run away from home. See Morgan, P. *Farewell to the Family*, London, Institute of Economic Affairs, 1999. p. 163.

But there is, these days, an unconscious drift towards accepting the inevitability of flux and change as a condition of modern living. Some people try to deal with that by cultivating the kind of emotional detachment the ancient Stoics recommended. In practical terms, they may say that it's better not to try to hold on to a relationship that has gone stale. This response is reflected in changing short-term partnerships and a casual attitude to divorce. But while the wisdom of 'moving on' has become almost an article of faith for some as far as relationships between adults are concerned, people still look for something constant in their lives; hence the parent-child relationship has become more intense and unconditional than ever. So when the relationship between their parents break down, children can become pawns in a post-marital gender war. It is a war that in the end neither sex can win and this may explain the rise of organisations that offer separate help to the various parties involved: 'fathers for justice' defending rights to contact with their children after separation or divorce, groups providing refuges for women fleeing male violence, and charities like Childline offering children an independent voice to apply in their own right for help and advice. Whatever the reason, however, it is clear that marriage, seen as the basis of the traditional family, now competes with other alternatives in the way people choose to live their lives, so that in many Western countries, the traditional, two-parent, one-earner family, has become a dwindling phenomenon. Behind these changes, however, lies something more deeply ideological than custom and convenience.

### **'New families'**

The new ideology that has gained ground has done so as people have begun to seek to restructure their lives in radically new ways of conceiving of the family. In particular, the simple conception of the biological triad, mother, father, and their joint offspring – the common meaning of 'family' in the case of most other mammalian species – now finds itself under serious challenge, while the idea has taken root that human families can be constructed, or put together, in any way that people want. A necessary implication of this is that biology counts for little or even nothing: that neither the mother-child relationship, nor the father-child relationship, understood in biological terms, has any strong significance - that what matters most is what adults want, and children can be expected to adapt to it, however it works out in practice.

In contrast to this, I believe that not only the pair-bond, but also the maternal tie and the bond between father and child are powerful factors in human life. To take the mother bond first, there is no reason to doubt the widely held view that a child who lacks the warm physical bond of mother-love has lost something that can only be partially compensated for by others, if at all. A wealth of empirical research exists concerning that relationship. This ranges from Harlow's sad experiments on monkeys to test the effects of maternal deprivation to John Bowlby's observations about the importance of the mother-infant bond for child development. There are also more recent studies following up the lives of mothers who have been in care themselves that show they often have difficulty in handling relationships with their own

children later on.<sup>3</sup> There are, then, convincing practical reasons for the old-fashioned idea that mothers and children need each other.

Feminists have often been prominent in defending the cause of women as mothers, but the overall impact of some recent feminist thinking has been on the whole negative as far as the traditional family is concerned. It is often linked to an analysis of the family that sees it as a source of women's repression. But there is a new wave of feminism that is more sympathetic to the family. For example, while Betty Friedan's book *The Feminine Mystique* had a seminal influence on the feminist movement of the 1970s, only a decade later she was prepared to set out a new vision of the family as 'that last area where one has any hope of individual control over one's destiny, of meeting one's basic human needs, of nourishing that core of personhood threatened by vast impersonal institutions.'<sup>4</sup> There is also a more thoughtful appreciation of the root idea of the *natural* family amongst some feminists, although there is still a powerful lobby that supports a gender-neutral perspective.<sup>5</sup>

But there is something paradoxical about seeking gender-neutrality in what is, after all, the ultimate sexually defined relationship of procreation – especially when this is done from a gender-defined perspective. The philosopher Mary Warnock who has greatly influenced practice in the area of assisted reproduction, talking about her own early life, has said that she had a happy and comfortably secure childhood, despite the fact that her father had died before she was born. She seemed to draw from this the conclusion that the absence of a father is not crucial to a child. Of course, in a sense, *nothing* is crucial – children are very resilient. But even if young children might not seem troubled by the loss or absence of a male parent, fathers are generally acknowledged to have an important role with older children. It is also clear that for some grown-up children who have been adopted or otherwise cut off from them, the desire for contact with unknown parents can be overwhelming.<sup>6</sup> More pragmatically, too, for purely economic reasons, governments are increasingly seeking to oblige fathers to fulfil their traditional role as providers of family support.

### **Fertility treatment and assisted reproduction**

The ongoing debate about the role of fathers is an important aspect of another area that concerns the family: the new reproductive technologies, and especially fertility treatment involving donation of gametes. In

---

<sup>3</sup> See Hughes, Claire, 'Making and Breaking Relationships: children and their families' in *Children and their Families: contact, rights and welfare*, ed. A. Bainham, B. Lindley, M. Richards and L. Trinder, Hart, Oxford-Portland Oregon, 2003, pp. 33-46. p. 41.

<sup>4</sup> B. Friedan, *The Second Stage*, New York, Summit Books, 1982, p.229.

<sup>5</sup> I discuss broader aspects of feminism and the family in 'Feminist aims, family consequences', Ch.4 of *The Fragmenting Family*, pp. 58-81.

<sup>6</sup> Someone who was prepared to invest considerable effort in a search for the identity of her natural father, Joanna Rose, took her case to the House of Lords in Britain., ultimately securing legal recognition that her human rights were indeed engaged in the matter. See *Rose v. Sec. of State for Health and the HFEA*, [2002] EWHC 1593.

practice, it has been found that people seeking assisted reproduction overwhelmingly prefer, where possible, to have children who are genetically related to them. But sometimes a couple who desperately want a child will have no alternative but to use donated gametes if they are to fulfil that wish. For example, this might be the only way they can avoid passing on a serious genetic condition. But the fertility industry is a highly lucrative business and it has spread its net far beyond modest medical aims of this sort, while the *demand* for assistance has gone much further too, pushing through the natural barriers of age, sex and even death. It may well be time to pause in this rush for self-fulfilment by procreation, and think about what it means to cut a child off from its genetic heritage and its own genetic relatives.

In the case of same-sex couples or single people there is, in addition, the fact that the decision necessarily involves creating a child who will not have the experience of a mother's care, or else not have the experience of a father's care. And, as another philosopher has pointed out: 'Creating children with the intention that they not have a custodial father, or alternatively a custodial mother, is potentially just as problematic as creating children divorced from their biological origins.'<sup>7</sup> Whatever compensation may be implicit in the situation, the remarkable fact is that what those who are often called 'children of choice' are deprived of is something that, for the entire history of humankind, has been taken as a good and has so far not needed to be proclaimed as a right - in the one case to a father /male parent, in the other to a mother/ female parent.

Now I don't want to deny that sometimes alternative arrangements of these various kinds can be rewarding for those involved, All the same, we still have to ask how far it is reasonable to build them into a new conception of family, to be widely imitated and promoted, rather than recognising them as exceptional situations that necessarily involve some loss for the child. The kind of loss I have in mind is the loss bound up in the insecurities, both personal and legal, of their situation.

These procreative issues are inextricably linked with the recent introduction of civil unions or partnerships in a number of countries. So it may be worth thinking more carefully about what a civil union is intended to do. Unlike the historical approach to heterosexual marriage, civil unions tend not to be entered into in order to form a procreative unit. Instead, the emphasis is on two people wanting to be with each other and to demonstrate to the world their personal commitment to each other.

To have doubts or concerns about seeing such unions as the place for creating families via assisted reproduction is not to oppose civil unions in principle, nor is it to suggest that the state should place obstacles in the path of same-sex relationships, or even that it should rule out in advance any particular caring arrangements for existing children. But it would justify a slower pace of change in using scientific advance to facilitate the transfer, or even sale, of genetic material between persons as a means of producing children who will be separated from their genetic ancestry. It would also justify a more cautionary approach

---

<sup>7</sup> J. David Velleman, 'Family History' *Philosophical Papers*, vol. 34, no. 3, November 2005, pp. 357-378. p. 360.

to the 'new families' ideology. For whatever view one takes of it, it is surely undeniable that we need more time to evaluate this untested experiment with ways of first creating and then bringing up children.

My own view is that, while much public discussion is based on the assumption that there is a popular demand for new modes of family formation, most people do in fact continue to favour the security of the kind of family relationships provided by nature rather than the law-courts - the traditional, heterosexual family defined by marriage and blood relationships. There remains, for many people, a deep intuitive conviction that, as the Scottish philosopher David Hume put it, the relation of blood 'creates the strongest tie the mind is capable of in the love of parents for their children.'<sup>8</sup>

There are those, however, who think otherwise and are influential in pressing their views. As a result, there is a move in many Western countries to pursue change in line with the new ideology which seeks to replace the concept of the biological family with the concept of 'family' as a social and legal construction. Nor is this simply a harmless matter of concept-creation. The new ideology is designed to use conceptual change to replace, in law and practice, biological claims to family relationships with social and legal criteria. The most extreme reflection of this is changes to birth-certificates so that they no longer record a person's biological or genetic origins.

Faced with these dramatic changes which legally separate offspring from contact with, or even knowledge of, their biological or genetic parents, some clauses in the United Nations Convention on the Rights of the Child take on a new contemporary relevance: Article 7 specifies that: 'The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.' And, according to Article 8: 'States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.'<sup>9</sup>

### **The genetic chain: identity and culture**

Some will ask, why does genetic ancestry matter so much? One answer to this is that children who are deprived of knowledge of, or contact with, their genetic origins are exiles from the kinship network – they are orphans in a sense previously unknown to human beings. They may in fact have unknown half-siblings, cousins, aunts, grandparents, but they will never meet them. Of course, the hope is that they will be provided with an alternative family network that will provide love and security, but even so, the subtle

---

<sup>8</sup> Hume, D. *A Treatise of Human Nature (1739-40)*, ed. Ernest C. Mossner, Harmondsworth, Penguin, 1985. Bk II, 'Of the Passions', Sect. 4. p. 401.

<sup>9</sup> On this, see Bainham, A. 'Parentage, Parenthood and Parental Responsibility' in Bainham, A. Day Schlater, S. and Richards, M. eds. *What is a parent? A socio-legal analysis*, Oxford, Oregon, 1999. pp. 25-46. p. 37. See also Fortin, J. *Children's Rights and the Developing Law*, London, Edinburgh and Dublin, Butterworths, 1998 and Le Blanc, L. J. *The Convention on the Rights of the Child*, Lincoln and London, University of Nebraska Press, 1995.

similarities of genetic relationships may come to haunt them in the future, particularly when they have children of their own and start to look for such things as shared resemblances, attitudes, interests, tendencies, qualities of character and physical features in their own offspring.

There is something very powerful about this desire to look back – to understand your own past. As a wise Chinese proverb says: ‘To forget one’s ancestors is to be a brook without a source, a tree without a root.’ So it is, I believe, the attack on biology that is probably the most recent and most damaging development in the story of the family. This was publicly acknowledged by the President of the International Society of Family Law, Marie-Thérèse Meulders when she said: ‘One of the main contemporary issues is the choice between the biological or the sociological truth as the legal basis of parenthood.’<sup>10</sup>

I will end here by saying that this is not an anti-libertarian message. Far from it, although I recognise that it is not how libertarianism in relation to the family is usually interpreted. For while the libertarian is indeed the friend of the minimal state, even the minimal state must fulfil two functions: first, it must make it possible for adults to enter into contracts with each other and marriage is at least a *quasi*-contract, and one that has been devalued to the point where it is easier to get out of a marriage than a business-deal. Second, it must protect the vulnerable. Of society’s members, it is usually conceded that children are amongst the most vulnerable: in childhood, they are vulnerable to parental separation decisions and to the choices those parents make about their care and custody; but the life of a child bargained over and split in two by judicial decree is seldom trouble-free. However, it is not only in childhood that children can be deprived of important rights. Recent developments in the area of reproductive medicine mean that they can be deprived of rights even at the embryonic stage, especially the hitherto undeclared *future* right to their own biological mother or father.

### **In sum . . .**

I have not been able to do more here than indicate the way in which, in *The Fragmenting Family*, I sought to build a philosophy of the family, to bring together arguments from various sources, from philosophy itself, from social research, from economic analysis and legal judgement, from feminism, science and bioethics. I chose that approach because I recognized that the multiplicity of diverse sources behind the challenge to the family are usually looked at only separately and independently. My conclusion was that, while language is flexible and terms can, of course, change their meaning over time, there is a primary concept of ‘family’ that cannot and should not be distorted by law and custom to meet the shifting vagaries of taste. For the barely recognised and largely unacknowledged struggle for the very notion of family, in which a social and legal construction of partnership and parenthood is set against a biological understanding of family, is currently bringing divisions not only over marriage, sexual conduct, and the roles of men and women, but also over freedom of thought and conscience, and openness of debate.

---

<sup>10</sup> Marie-Thérèse Meulders, President of the International Society of Family Law, in her Introduction to Eekelaar, J. and Petar Sarcevic, *Parenthood in Modern Society: legal and social issues for the twenty-first century*, Dordrecht, Holland, Marinus Nijhoff, 1993. p xii.