Influential Factors and Equity Issues in Divorce Settlements*

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Divorcing parents have the challenge of determining postdivorce rights and responsibilities. If they are unable to meet this challenge, a judge will determine these rights and responsibilities. This legal agreement constitutes the divorce settlement and includes custody, visitation, and financial arrangements. The purpose of this article is to outline common custody, visitation, and spousal support, and property arrangements and to identify factors which correlate with various arrangements. Based on this review, questions are raised that family life educators, therapists, and policy advocates should consider when planning and implementing their interventions, and possible program formats are proposed.

When parents divorce, they have the opportunity to make arrangements for continuing the financial support of all family members and for reorganizing the relationships with their children. If parents relinquish this opportunity, the court will determine the arrangements. These judiciously approved or determined arrangements constitute the divorce settlement and generally include custody, visitation, child support, and the division of property. The arrangements also may include spousal support, permanent or rehabilitative.

Both parents' and children's postdivorce well-being are greatly affected by the details of the divorce settlement. Thus, it is critical that family life practitioners have a working knowledge of current research on custody, visitation, and financial arrangements following divorce. This understanding of research will facilitate more effective educational, therapeutic, and political interventions (Miller, Schaneveldt, & Jenson, 1981). The purpose of this article, therefore, is to review and examine existing theory and research related to specific aspects of divorce settlements. Current trends in custody, visitation, and finances will be presented, followed by a discussion of factors that influence the determination of specific arrangements. Based on this review, issues which parents, lawyers, and judges may want to consider when determining equitable settlements will be identified.

Custody

Current Arrangements

The custody decision delineates parental rights and responsibilities following divorce. Legal custody affirms a parent's right to make major decisions concerning his/her children's welfare. Custody also states who has primary responsibility for children's daily care.

Although judges approve the final custody arrangement, they usually endorse the parents' proposed agreements. However, when parents disagree about the desired custody arrangements, judges make the decision. Approximately 10% of divorce cases involving children include litigation over custody arrangements (Foster & Freed, 1980). Mothers are awarded custody of 90% of the children experiencing parental divorce (Spanier & Glick, 1981). The number of sole legal custody awards to fathers has increased slightly in recent years. However, only a minority of children are in the legal care of their fathers regardless of the recent increase (U.S. Bureau of the Census, 1980).

There also has been an increase in the number of joint custody awards. Currently, about 32 states have joint custody statutes (see Foster & Freed, 1986, for a list of the states). Of these 32 states, 12 have statutes outlining presumptions and preferences favoring joint over sole custody. Although the recent changes in statutes have had limited influence on parents' custody decisions, the changes have affected judicial determinations in contested cases as reflected by the slight increase in the number of awards made to fathers (Weitzman, 1985).

The literature on joint custody is complicated by the confusion between legal and physical custody (Frankel, 1985). Legal joint custody refers to the equal allocation of decision-making responsibilities concerning children's health, education, and welfare, whereas physical joint custody refers to the equitable (not necessarily equal) division of children's custodial and affectional care (Foster & Freed, 1986). There are many decision-making and care arrangements that are labelled joint custody, and the distinction between sole and joint physical custody is unclear. In addition, dimensions of parental involvement such as time spent with children, involvement in major and routine decisions, the quality of parent-child relationships, and involvement in daily care, vary within and across different custody arrangements. Thus, it seems important to recognize that custody is a legal concept and should not be used as a synonym for social/psychological indicators of parental involvement.

Custodial Decision Making

Custody decisions are influenced by legal presumptions and preferences found in statutes and case law, and judges' and parents' attitudes. The relative importance of these factors in final custody outcomes varies (Foster & Freed, 1986; Lowery, 1981; Settle & Lowery, 1982).

Currently, most statutes do not state a preference toward mothers, but judicial precedence has created a presumption of sole maternal custody (Fox, 1985; Weitzman, 1985). Although used less often than in the past, there also is a presumption that mothers should be awarded sole custody of young children ("tender years" doctrine). Doctrine governing custody awards has shifted from maternal preference to the "best interests of the child" (Weitzman, 1985). The 1970 Uniform Marriage and Divorce Act (UMDA) states that the best interest of the

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child can be determined by considering the parents’ wishes, the child’s wishes, parent-child relationships, the child’s adjustment to home, school, and the community, and the mental and physical health of the individuals involved in the case. Many states have adopted the UMDA guidelines. However, these guidelines can be interpreted in different ways and leave great room for judicial discretion (Druckman & Rhodes, 1977). Settle and Lowery (1982) asked judges to rank criteria they used when making child custody decisions and found that important criteria were the judge’s assessment of each parent as a mature, responsible adult and each one’s ability to provide a stable home. In addition, most judges reported that they did not systematically give preference to one parent over the other.

The judges also were asked about their thoughts on joint custody. Many reported that they would not award joint custody except under very unusual circumstances. However, some believed that the arrangement was workable when the former spouses had above average levels of intelligence and had a cooperative relationship. Settle’s findings differ slightly from those found in a study of Louisiana judges (Selleck, Draughn, Waddell, & Buc, 1986). Most of these judges felt that joint custody provided more beneficial than detrimental consequences. Of the several factors examined, only the belief that children had more opportunities to be with both parents in joint rather than sole custody was related to an increase in the percentage of joint custody awards granted by judges. During the next decade the nature of judicial discretion may shift, however, since states have recently adopted presumptions or preferences of joint custody.

Because 90% of divorcing parents provide judges with consensual custody agreements, and because evidence indicates that parents’ preferences are the most influential factor in determining custody arrangements (Weitzman, 1985), it is important to examine the criteria parents reportedly use in their decision making. Criteria include financial well-being, each parent’s sense of responsibility toward the child, moral character, the emotional quality of the parent-child relationship, continuity in the child’s environment, adequate time available for parenting, and the importance of young children being with their mother (Lowery, 1985; Marschall & Gatz, 1975).

However, it seems that the criteria parents think are important and those they actually use in their decision making somewhat differ. For example, many parents felt that financial well-being was important, yet 75% of couples decided on maternal custody (Lowery, 1985). This arrangement was predominant in spite of the fact the fathers are usually much better off financially than mothers following the divorce (Espenshade, 1979). Parents’ decisions seem to reflect both the concern for continuity of the primary caretaker (mother) and the perpetuation of social tradition (Weitzman, 1985).

As Lowery (1985) noted, it is import-ant to notice criteria that were not considered important by parents. The most critical criteria omitted was each parent’s commitment to maintaining a cooperative parenting relationship with their former spouse. Although parents did not rank this as an important variable, several states have begun to include this willingness as an important criterion in custody statutes (Foster & Freed, 1986).

In sum, although the relative weighting may vary, it seems that parents and judges use similar criteria when making decisions about child custody, and that the most important criteria is continuity in primary caretaking arrangements. It also seems that judges are slightly more oriented toward sole custody arrangements than parents (Lowery, 1985).

Feasibility of Custody Arrangements

The success of various custody arrangements can be evaluated by examining parent-child relationships and children’s well-being postdivorce and child-related litigation rates. A major finding of current research is that fathers with sole or joint custody do as well as custodial mothers when emotional well-being or parenting quality and satisfaction are used as indicators of success (Ambert, 1982; Greif, 1985; Hanson, 1986; Lowery & Settle, 1985; Risman, 1986; Sandtrock & Warshak, 1979). In addition, there is growing evidence that boys may do better in father or joint custody arrangements than in maternal custody arrangements (Hanson, 1986; Hetherington, Cox, & Cox, 1978; Peterson & Zill, 1986; Sandtrock & Warshak, 1979; Sandtrock, Warshak, & Elliot, 1982). This pattern is interesting given that judges reported that placing the child with the same sex parent was more important for girls than boys (Settle & Lowery, 1982).

The recent research on joint custody has indicated that, for at least those parents who have chosen this option, the arrangement provides more advantages and fewer disadvantages than sole custody arrangements (Ahrons, 1980; Bowman & Ahrons, 1985; Greif, 1979; Iffeld, Iffeld, & Alexander, 1982; Luepnitz, 1982). Parents have reported higher levels of well-being, more stable and substantial financial resources, and fewer problems with parenting. However, research examining the rates of child-related litigation postdivorce has provided contrary evidence of parents’ satisfaction with custody arrangements in that more parents with joint custody (20%) than sole (12%) have litigated to resolve child-related problems (Pheer, Beck, Hauser, Clark, & Whitney, in press, cited in Weitzman, 1985).

A pervasive idea in this literature is that joint custody only works well if the former spouses maintain an amicable and cooperative relationship (Weitzman, 1985). However, Bowman and Ahrons (1985) found no differences on the level of conflict surrounding custody, visitation, child support, alimony, or property when they compared couples with joint custody to those with maternal custody. Furthermore, Luepnitz (1982) found that when parental conflict was high, children in joint custody families reported higher levels of self-esteem than children in either paternal or maternal custody families. It may be that an active relationship with both parents serves to mitigate the harmful effects of parental conflict on children’s well-being. Thus, it seems we need more research on parental conflict and joint custody arrangements before concluding that the arrangement is feasible only under conditions of low conflict and moderate to high support.

Visitation

When sole custody is awarded to one parent, the other usually receives visiting rights. It is through visitation that the noncustodial parent maintains the relationships with his/her children. Because mothers usually are awarded sole custody, the issue of visitation focuses primarily on fathers and their children.

It seems that most divorcing parents are able to settle on visitation arrangements without much legal
assistance, and that they tend to consider the child’s and the noncustodial parent’s needs more heavily than the custodial parent’s needs or the quality of the parental relationship (Alexander, 1980). Although visitation is the main focus of this discussion, it is important to note that visitation patterns are only one aspect of paternal involvement and the father-child relationship. Other important factors include the range of activities in which the father participates, parenting skills, and specific parental behaviors.

**Current Arrangements**

Frequency, duration, and regularity are important aspects of visitation arrangements. It seems that many fathers spend a lot of time with their children immediately following the separation, but that time together quickly decreases postdivorce (Hess & Camera, 1979; Hetherington, Cox, & Cox, 1976; Wallerstein & Kelly, 1980). Using a representative sample of children ages 7 to 11, Furstenberg, Nord, Peterson, and Zill (1983) reported that 52% of the noncustodial fathers had not seen their children in the past year. Only 16% had seen their children weekly and 17% had seen them biweekly or monthly. It seems that a regular, bimonthly pattern of visitation is maintained by many fathers for a year or two following the divorce (Koch & Lowery, 1984), but that the frequency and regularity of visitation then diminish. The pattern of telephone contact is similar to visitation (Furstenberg & Nord, 1985; Trofín, 1984).

Although contact with nonresidential fathers diminishes following divorce for many children, for some families, as the frequency of visitation decreases, the length or duration increases (Trofín, 1984). In addition, there is evidence from research on a nonrepresentative sample that children in stepfamilies (either father or mother had remarried) see their fathers regularly for lengthy periods of time (Jacobson, 1987). Jacobson found that the average time children spent with the nonresidential father ranged from 32 to 41 hours every 2 weeks. Thus, there is variation in the amount of contact maintained by nonresidential fathers and their children and although frequent, regular contact is not the norm, the variability in visitation patterns should not be disregarded.

**Visitation and Children’s Well-being**

Research on children’s well-being highlights the importance of continuing relationships with both parents following divorce (Hess & Camera, 1979; Peterson & Zill, 1986; Wallerstein & Kelly, 1980). Acknowledging that visitation frequency is an inadequate indicator of father involvement, Kurdek (1986) used four indicators of paternal involvement to investigate the relationship between involvement and children’s well-being: visitation frequency, duration, and regularity, and the regularity of child support payments. He found that 76% of the significant correlations indicated that father involvement was associated with higher levels of children’s well-being (controlling for children’s ages). He also found that this relationship occurred more often when parental conflict was low than when it was high.

Peterson and Zill (1986) measured the child’s assessment of the parent-child relationship and the parent’s assessment of dimensions of children’s behaviors such as depressed/withdrawn, antisocial, and impulsive/hyperactive and two kinds of school-related problems. Children who reported a positive relationship with both parents had fewer behavior problems than other children. Generally, children who reported a positive relationship with neither parent had the most severe problems, whereas children who reported a positive relationship with only one parent were in the middle. These findings replicated those reported by Hess and Camera (1979), and thus, reinforce the importance of fathers’ involvement following divorce.

**Correlates of Visitation Patterns**

The majority of research on visitation has been conducted with the purpose of identifying important correlates of frequency and regularity. The strongest correlates have been indicators of the quality of family relationships following the divorce. Specifically, several researchers have found that parental conflict is related negatively to visitation regularity and the total amount of time the father spends with his children (Ahrons, 1983; Koch & Lowery, 1984; Kurdek, 1996; Wallerstein & Kelly, 1980). Other important relationship variables include the mother’s attitude of the father as a parent, the children’s understanding of the father’s situation, the quality of the father-child relationship, the father’s level of involvement in child rearing before the separation, and the regular payment of child support (Ahrons, 1983; Guldabald, Clemens, Perry, Nastasi, & Lightel, 1988; Kurdek, 1986; Trofín, 1984; Wallerstein & Kelly, 1980).

Individual characteristics of fathers that help explain various visitation arrangements include socioeconomic status (SES) and financial stability. Fathers with the following characteristics tend to visit their children less often than other fathers: lower SES, financial instability, lower levels of education, and black race (Furstenberg et al., 1983; Wallerstein & Kelly, 1980).

Two other important factors are the geographic distance between maternal and paternal households and remarriage status. Clearly, distance is related negatively to the frequency of visitation, but correlates with longer visits (Furstenberg & Nord, 1985; Trofín, 1984). Evidence on the relationship between remarriage and visitation has been mixed. Furstenberg et al. (1983) found that visitation was most frequent when the father was single and least frequent when the former spouse had remarried. On the other hand, Jacobson (1987) found that the time spent together was greater in families in which the child lives with a remarried mother and visits a remarried father than in families in which the child lives with a remarried father and visits a single mother. Trofín (1984) found that when fathers had remarried the length of visits increased while the frequency decreased. And yet others have found no relationship between marital status and visitation (Koch & Lowery, 1984). It is likely that this is an area for further research that should take into consideration various living and marital arrangements, as well as use multiple indicators of parental involvement.

Evidence on the relationship between visitation and paternal involvement and children’s sex or ages also has been mixed. Wallerstein and Kelly (1980) found that younger children and adolescents had more frequent contact with their fathers than 9- and 10-year-olds and that 5 months after the separation fathers visited boys more frequently than girls. These gender differences had disappeared by the 18-month assessment. Jacobson (1987) found that younger children were visited more frequently than older

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children. However, several researchers have found no relationship (Furstenberg et al., 1983; Koch & Lowery, 1984; Kurdek, 1986).

Child Support

Child support is a monetary payment made by one parent to another parent to help provide for the children after the divorce. This financial arrangement is an emotional issue that involves an often conflictual area of family functioning and often creates a concrete connection between individuals who are trying to form separate lives (Nuta, 1986). Because mothers usually are awarded sole custody, and because men usually earn more money than women, fathers more often pay child support.

Current Arrangements

The following report is based on 1985 United States Census data of separated and divorced mothers. Only 61% of them had been awarded child support. Of those due support, 48% received the full amount, 26% received a partial amount, and 26% received no payment. Of those who received at least partial payments, the mean amount received annually was $2,220. This represented less than 9% of men's average income.

Within this group of divorced and separated women, 32% were living in poverty in 1985. About 40% had been awarded child support, and of these, 66% received at least partial payments. The mean amount received annually was $1,380. This represents about 66% of the mean amount received by all women ($2,220).

Determination of Child Support

Cassety (1982) has outlined two different methods for determining fair child support awards—cost sharing and resource sharing. The cost sharing method assumes that there are fixed and basic costs to raising a child and that these costs should be shared equally by the parents. The non-custodial parent provides enough support to match the custodial parent's level of living. In the resource sharing method, support payments represent a proportion of the child's costs that is equal to the ratio of the former spouses' financial resources (usually earnings). For example, if the husband earns twice as much income as his former wife, he would pay for twice as much of the children's expenses as she does. The resource sharing method helps deal with inequities created by differential incomes, but requires a strong commitment to cooperation and fairness by the parents. Weitzman (1985) has argued convincingly that the resource sharing method should be used in setting child support awards with the goal of equalizing mothers and fathers' postdivorce standards of living.

Most state statutes recommend that the determination of child support awards should be based on the husband's income, the children's level of living before the separation, the number of children, and the wife's current earning power. Although judges may follow general guidelines, awards are usually determined on a case-by-case basis. This ensures some flexibility, but may result in different awards across families with very similar circumstances (Cassety, 1984). Over time, this iniquity may contribute to the nonpayment of support when some fathers discover that they are paying more support than their peers (Cassety, 1984; Nuta, 1986). This is a serious concern given that child support awards are already very low and place an inequitable burden of support on custodial mothers (Weitzman, 1985).

Correlates of Child Support

The major correlates of awards and payments are sociodemographic factors and the parental relationship. Important sociodemographic factors include income and educational level, race, and marital status. There is strong evidence that women with more income are awarded and receive more child support than women with less income (Furstenberg & Nord, 1985; U.S. Bureau of the Census, 1986; Weiss, 1984). In addition, white women and those with college educations are awarded and receive support more often than black women and women with lower educational levels (U.S. Bureau of the Census, 1986).

The nature of the former spouse relationship also is important in that the level of parental conflict is related negatively to the regularity of payments (Koch & Lowery, 1984; Kurdek, 1986). In addition, the percentage of those receiving at least partial payments is higher when there is a voluntary support agreement rather than one that is court ordered (81% versus 56%) (U.S. Bureau of the Census, 1986). The relationship between remarriage and child support compliance is unclear. Some researchers have found no relationship (Furstenberg & Nord, 1985), whereas others have found that payments decline when the former spouses remarry (Buehler, Hogan, Robinson, & Levy, 1986; Cassetty, 1978).

Noncompliance

The high noncompliance rate of child support payments is a serious problem in the United States. In 1985, only half of the women with ordered support awards received the full payment (U.S. Bureau of the Census, 1986). This creates an insecure and unstable financial situation for many women following divorce and makes it very difficult to effectively manage resources and plan for family goals (Buehler & Hogan, 1980; Weitzman, 1985).

Fathers may not contribute financial support because of intense emotional pain and isolation, overextension, revenge, and/or irresponsibility (Nuta, 1986). Noncompliance also may be a response to insincere and ineffective legal enforcement procedures (Weitzman, 1985).

Some states have become concerned with the noncompliance of child support payments because of the burden it places on the public welfare system. As a result, public policies and programs have been implemented to help increase compliance rates. These various programs have been only moderately successful to date. However, recent legislation and programs aimed at simplifying the complaint and enforcement processes may result in greater compliance. For example, recent changes in the enforcement procedures in Knox County, Tennessee, resulted in a 25% increase in the compliance rate of child support payments over a 12 month period ("Knox child-support," 1986).

Spousal Support and Property Settlements

Recent research in California shows that women have received less alimony and smaller proportions of marital property since the passage of no-fault provisions (Seal, 1979; Weitzman, 1985). According to Bahr (1983), "recent changes in divorce laws have hurt females economically" (p. 463). These changes in divorce settlements, along with women's propensity for economic deterioration following divorce (Espenshade, 1979; Weis, 1984), compounded their financial problems postdivorce.

Spousal Support

In 1985, 15% of the divorced and separated women had been awarded spousal support (U.S. Bureau of the Census, 1986). Of those due, 73% received at least partial payments. The
mean amount received in 1985 was $3,730. Women with college educations received higher payments than women with high school educations ($4,300 versus $2,588).

Recent changes in divorce law involving no-fault legislation have raised concerns about the equity in spousal support awards and property settlements (Bahr, 1983; Dixon & Weitzman, 1980; Weitzman, 1985). Under the old system, the determination of fault in the divorce had a major impact on the amount of alimony awarded and on how property was divided. Women who could prove their husbands’ infidelity often were awarded more alimony. However, several states have eliminated misconduct from alimony determinations (Bahr, 1983; Weitzman, 1985). Bahr (1983) stated that alimony and property arrangements "are based increasingly on need and ability to pay rather than on misconduct." (p. 459). Thus, an unexpected consequence of no-fault has been that women have lost some of their financial bargaining power (Weitzman, 1985).

Although in reality women are awarded spousal support more often than men, the decision made in Orr vs. Orr affirmed that it is illegal for states to allow only women to receive support awards (Foster & Freed, 1979). The equal protection clause of the Constitution protects men’s rights to receive spousal support. However, in most cases this right only will be exercised in marriages where the wife has made a lot more money than her husband.

Property

In 1985, 36% of the divorced and separated women had been awarded a property settlement (U.S. Bureau of the Census, 1986). This percentage was down from 45% in 1979. About 26% received a one-time, lump-sum payment as part of the settlement. Of this group, 22% received cash only, whereas 4% received both cash and property. In addition, the average income of those with a property settlement was $14,970 and those without a settlement was $11,850.

Implications for Practice

Equity Issues

This discussion of current arrangements and research in child custody, visitation, and finances post-dissolution can serve as the foundation for identifying important issues of fairness between men and women who are determining postdivorce rights and responsibilities.

Children. Based on the increasing evidence that fathers can be good primary caregivers, several scholars have suggested that the use of the paternal preference presumption in child custody decisions may not be fair (Ahrons, 1980; Risman, 1986) and may be unconstitutional (Canacakos, 1981; Salk, 1977). However, it is important to note that the presumption that mothers are more suitable custodial parents than fathers is based on the more implicit presumption that sole custody is more suitable than joint custody. The research reported earlier in this discussion provided some evidence that this may not be the case.

Furthermore, Canacakos (1981), a family law scholar, has forwarded the argument that the presumption of sole custody violates the fundamental constitutional right of parental autonomy. Autonomy, it involves the right to make and implement decisions concerning one's children's welfare. Canacakos states that this right is shared equally during marriage and argues based on case law that the right should be shared equally following divorce. Joint custody, rather than sole custody, equally protects autonomy for both parents. The presumption of joint custody could be overridden if one parent was proved unfit or if he/she did not wish to have joint custody (Canacakos, 1981). Canacakos presents the contention that sole custody, in most cases, is an unfair custody arrangement, and that, to date, men have been widely discriminated against in the process of making custody decisions. Weitzman (1985), on the other hand, argues that the major criteria in custody decision making should be continuity of the primary caretaker and that joint custody should be awarded only with mutual parental agreement. These arguments also raise the issue of whose rights should be protected in custody cases—mothers', fathers', or children's. Is child custody the arena in which women's power in the legal system should be institutionally protected? Is sole custody the equivalent to terminating parental rights as conceptualized in adoption and other areas of domestic law, and is this fair?

Other questions of fairness can be drawn from the discussion on custody arrangements: How closely should the custody decision be tied to the issue of financial support? What constitutes financial support? Is it only money, or should support include the time and energy used in child care and household production? (See Bahr, 1983 and Coombs, 1979, for discussions of including household production estimates in the determination of financial settlements.)

Based on the discussion of visitation arrangements, several equity questions can be identified. Given the positive relationship between parental involvement and children's well-being when their parents separate, under what conditions is it fair to restrict children's access to the noncustodial parent? Is it fair to restrict visitation because of nonpayment of financial support? How about to punish the father? What if the father is abusive, neglectful, or chemically dependent? Is it fair for the noncustodial parent to withdraw from his children because he wishes to avoid his former spouse? Is it fair for mothers to shoulder most of the responsibility for instrumental caregiving, while fathers primarily meet children's needs for recreation? What should be done when the children do not want to see their noncustodial parent?

Finances. The issue of financial responsibility for children and mothers presents major equity concerns. Is it fair that fathers, on the average, contribute only 19% of their income to their children's support? Is it fair that many children live in poverty, at least temporarily, because of their parents' marital problems? Are the father's financial responsibilities discharged when he remarries and begins supporting a second family? How about when his wife remarries and there is another male providing financial support? Should the amount of support awarded take into consideration the mother's earning power when she assumes
primary responsibility for child rearing, and thus provides in-kind services rather than monetary support.

Is it fair for the noncustodial parent to withhold financial support when the custodial parent restricts visitation? Conversely, is it fair to restrict visitation as a response to support noncompliance? How should courts treat such exchanges?

Equity concerns related to economics also include the issue of spousal support. Under what conditions is it fair for one spouse to expect financial support from the other following the divorce? For how long should support continue? It seems important to consider that joint decisions are made during marriage that have long-term economic consequences. These consequences should be shared equally by the spouses. For example, take the case where the couple jointly decides that the wife will remain unemployed until the youngest child starts school. It has been estimated that women with some college education lose about 7% of their earning power each year they stay out of the labor force. When they divorce, should the husband be expected to share this loss by financially compensating his wife? Or, take the case in which the wife has explicitly or implicitly refused to become employed during the marriage. Is her husband responsible for sharing her loss of earning power?

Coombs (1979) also has raised an important issue in regard to the role that investments in human capital have in dividing marital property. She argues that investments, such as putting a spouse through graduate school, should have economic value that is considered when arriving at a fair settlement. Courts have only recently begun to consider this issue.

Suggestions for Program Development

Intervention can be designed at the macro (political) and micro (educational, therapeutic) levels. Weitzman (1985) has made several suggestions for changes in judicial and legislative policy and her efforts will not be repeated here. Rather, two suggestions for educational and therapeutic interventions will be proposed: a workshop for divorcing parents and an instrument for parenting postdivorce.

The author is currently involved in evaluating a 10-hour, community-based workshop entitled the Orientation for Divorcing Parents (ODP). The sessions involve providing parents with information about the nature of the divorce transition and of the effects on parents and children. Much of the research summarized in this article is used in this workshop. In addition, the sessions include small group activities to help participants develop/enhance their communication and conflict management skills. These processes sessions would be strengthened by incorporating short case studies that present dilemmas reflecting the questions of fairness introduced in this discussion. At a minimum, there should be case studies that address the following: parents putting children in the middle of their hostilities, parents trading off visitation restrictions for support noncompliance, the relative contribution of financial support, and the remarriage of one of the parents. The use of these case studies as the basis of small group discussions would help orient parents' awareness to important issues and provide an opportunity to find solutions with people in similar circumstances who may have different perspectives to share.

The material presented in this article also has been used to restructure the parenting plan instrument used in California for families who choose joint custody. In our particular case, we needed an instrument that could be more widely used with people with differing educational backgrounds and one that could be used with a variety of custodial living arrangements. The purposes of the instrument are: (a) to increase parents' awareness of important issues to address, (b) to help the parents become child-oriented rather than self-oriented, and (c) to establish a process by which we could effectively resolve future parenting-related conflicts. The instrument can be used in two ways (with differing levels of cost and outcome effectiveness). It can be completed by each parent separately which will help increase the person's awareness. This use is relatively cost effective and unintrusive. It also can be used as the basis for developing a parenting plan. Each parent would separately complete the instrument and then a third party (attorney, therapist, mediator) would help the couple negotiate agreement on the items. This use of the instrument would require more resources, but would more effectively help the couple learn negotiating skills. Examples of questions included in the parenting instrument are: Would you object to the other parent visiting the child at school? Is it important to you that the child has prayer time at home? Are you willing to share costs with the other parent for needs which come up (e.g., braces)? Would you object to the other parent having overnight guests? Will you encourage the child's contact with this parent's relatives? Do you agree to keep the child "out of the middle"? A complete copy of this instrument can be obtained from the author.

These are only two ways in which practitioners can use the material presented in this article to help meet the various needs of divorcing families. These methods can be tailored to fit different types of divorcing families in differing regions of the country. Regardless of the methods used, however, practitioners must start from a strong knowledge base. The purpose of this article is to add to that knowledge base to facilitate effective practice.

REFERENCES


