

# TRANSITIONS

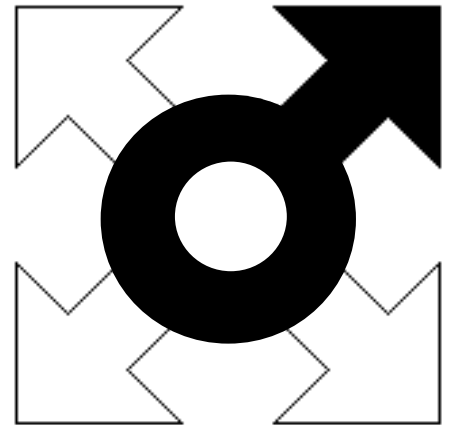
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## A Visit with the American Mens Studies Association

By Jason Leatherman

From April 1st to 3rd, the American Men's Studies Association (AMSA — see [mensstudies.org](http://mensstudies.org)) held its annual conference at Vanderbilt University in Nashville, TN. AMSA is an academic organization that studies men and masculinity. The conference had a loose theme of "Men and Masculinities in a Violent World." I thought it'd be worthwhile to attend so I could see what AMSA is about and make contacts for NCFM. Fortunately, I was joined by Peter Allemano of the Greater New York chapter and we set up a table at the event.

I wasn't sure what sort of reaction we would get from the attendees. AMSA after all was formally affiliated with the National Organization for Men Against Sexism (NOMAS), an organization that's opposed to most of NCFM's views. However, it turns out that AMSA has left much of the NOMAS philosophy behind. So the staff was genteel and made us feel welcome.

The event started with a viewing of a couple of videos. The first was "Body Image for Boys," a worthwhile look at the self-image of young men and how it's been negatively impacted by advertising and culture, similarly to girls' self-image. The second was "The Men's Movement" which turned out to be a survey of men's organizations that concentrate on the goal of men's responsibility rather than the idea of men's rights. The major organizations described were the Promise Keepers, New Warriors, and the Million

Man March. Organizations like these believe that "men have a long way to go," and this

is the category that AMSA falls into.

The keynote speech was given by AMSA president Mark Justad. He talked about how men have been "moving backward" since 9/11; the U.S. has engaged in domination instead of cooperation in relating to other countries and solving the terrorist problem. In his famous speech, Harvard president Summers disregarded the emotional intelligence (EQ as opposed to IQ) of women. And, Mark pointed out that school shootings have all been committed by boys. For me, his speech set a tone of apology — men need to apologize for being men, even if their shortcomings are natural, or not representative of men overall. At the least, there is something wrong with men that must be fixed.

The Friday evening main event was a presentation by Dr. Christina Jarvis entitled "The War Wounded Body." This talk really hit home with me, and Peter loved it, too. Dr. Jarvis discussed media images in the U.S. during World War II. At the start of the war, men were drawn in recruitment posters as strong and masculine. Wounded men could be displayed in magazines to show how well they were being treated, but the wounds would never be visible in the photos. Later in the war, minor wound images were allowed in order to get Americans at home to buy war bonds.

She made a few interesting comments about how men are perceived. Men are not penetrated, so showing them wounded is not fashionable. To be masculine is to contain your bodily fluids. So, you can't bleed, excrete due to fear, etc.

After the speech she took questions, and I asked if she thought what had been done was manipulative of men. She agreed absolutely, but she had not mentioned this in her

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# AMSA

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talk, nor proposed how we could stop it from happening again. I suppose this is the difference between academics and activists — AMSA wants to study the problems men face, while Peter and I want to do something about them. To be most effective, the two groups need to work with each other.

On Saturday the regular presentation schedule began. The day was broken into sessions, each consisting of three presentations with a similar theme. I attended a session on religion. Peter also attended some sessions and wrote his own report on his experiences. We took turns staffing the table. Between the two of us, Peter and I met over half of all of the attendees.

I have to hand it to Peter — while I would have been happy to stand behind the table, let people help themselves to literature, and answer the questions I'm asked, Peter was assertively introducing himself to people. He'd assemble piles of NCFM papers and stick them into people's hands. I'm very glad he came along!

Saturday's keynote speech was given by Harry Brod on date rape prevention. He started by defining consent — "yes" means "yes" and "no" means "no." He then defined the confirmative consent standard, his central point. The confirmative consent standard means that the default understanding is "no" until there's a verbal "yes." A man must take positive action to get that "yes." If he is accused of rape later, he'll have to identify what he did to obtain it. Silence equals rape.

This certainly protects women, but we should look at the flip side as well. The confirmative consent standard means that a woman can accuse a man of rape even though she didn't give a verbal "no." This opens the opportunity for abuse. If a man and woman are in a relationship and have had sex enough times that initiation isn't always verbal, then she can make him a rapist whenever she wants. I feel that is wrong.

It's not politically correct to assign responsibility to women, and this is another example of how society avoids it. Certainly, a woman's "no" must be respected. Without it, though, the crime would be defined by the woman's feelings. She decides whether or not an event was rape based on how she felt about it later.

This is a grey area, and readers may feel differently. I'd welcome debate on these points. However, this I feel strongly about: if an organization wants to call itself a men's organization, it should look out for men's welfare. It can't be a men's organization if it's blind to the man's side of a discussion.

If men are facing such an obstacle to safe sex (safe as in "won't end up in jail"), then what shall we do to educate men about the danger they face? How do they detect or defend themselves against women who may try to abuse the system? To create a male-positive message, all Brod had to say was "So guys, be sure you get that 'yes.'" Unfortunately, he missed that chance and stayed focused on prosecuting men, not protecting them.

At the close of the event, everyone met in the relaxation room to reflect on the

conference and its theme of male violence and to discuss possible future themes. One of the AMSA directors led the discussion. At one point he was going around the room asking opinions, and mistakenly called a female professor by the wrong name. Peter had encountered this woman in one of the presentations he attended and easily identified her as an ideological feminist. In response, she said, "That's okay, I'll rip you limb from limb later." Laughter erupted across the room as if this were cute, and then the group continued its discussion of male violence.

In general, the AMSA staffers could be less politicized. Many presenters were more male-positive than the staff was. Concepts such as the patriarchy and male guilt have been explored enough. It's time for men's organizations to move on to men's rights and ways that society could improve to make men's lives better. Sadly, most have yet to take this step. NCFM must fight to get this message into the American bloodstream.

Talking to attendees I would usually ask what they thought of Warren Farrell's books, and was shocked to see how few had ever heard of him. Perhaps in the future we can use knowledge of Dr. Farrell as a yardstick to measure our progress in enlightening the gender discussion.

Overall, I enjoyed myself and was happy I went. It's always a pleasure to be with people that are taking on men's issues. I encourage all NCFM members to get out there into the gender studies crowd and make what impact you can. Your point of view desperately needs to be heard.

# The AMSA Conference -- Peter's Report

By Peter Allemano

For me, the most enjoyable presentations at the AMSA conference were two in a session entitled "Theorizing Masculinities," which, despite its dry-sounding theme, proved to very moving indeed.

In "The mystery of masculinity," Thomas Matta of Mercyhurst College dealt with the theme of transition from boyhood into manhood. He discussed not only theoretical issues but provided a touching ac-

count of his relationship with his own son and a key moment in Matta's mentoring of the lad. The boy had just taken up football, and in the team's first game with the boy in its ranks, it experienced a triumphant victory. Afterwards, Matta was exuberant with pride and happiness, but his son, surprisingly, behaved in a manner that was withdrawn and pensive.

Later in the day, as the boy cuddled

in his father's lap, he asked whether, now that he was a football player, it would be O.K. to continue to be so affectionate. Matta recognized his son's position at a developmental crossroads and responded by telling him in no uncertain terms that there would always be a place for tenderness in his life. Indeed, as the boy's career in football progressed, Matta reported, his son could be as aggressive as any of his fellow players,

but after knocking one of them down, it was his son's practice to help the other boy up again.

Also in the "Theorizing Masculinities" session, Anthony Synnott of Concordia University presented his paper, "The hegemonic male or men in crisis?" It was a brilliant summary of gender issues that might have been taken straight out of Warren Farrell's writings, only retooled for academics in their own terminology, thereby making the ideas more accessible for this particular audience. In support of his contention that our collective perception of men's issues is skewed, Synnott duly noted that an analysis of the program for this very conference — with the theme of men in relation to violence — revealed a focus overwhelmingly upon males as perpetrators and relatively little upon males as victims. According to Synnott, it's as though, collectively, we are like fish swimming in a societal ocean of anti-male bias, utterly unaware of its toxicity because the pervasiveness of this bias renders it intangible or taken-for-granted for most of us.

Synnott cited numerous examples of the male experience of violence largely ignored by presenters at the conference, including high rates of suicide, on-the-job in-

jury and death, under-treated physical and mental health conditions, and the horrific impact upon men's well-being that arises out of separation from children after divorce. The ongoing insidious emotional and psychological violence that males endure on account of being under constant attack through sarcastic anti-male messages in mainstream media was dramatically illustrated when Synnott circulated his collection of male-bashing books, knickknacks and cartoons. He demonstrated how inured our society has become to the potentially injurious effect of such artifacts of our times by citing the infamous line of clothing and bric-a-brac emblazoned with the slogan, "Boys Are Stupid... Throw Rocks At Them." This paraphernalia, Synnott reported, was selling very well back home in Montreal; and he stated that his students in the Department of Sociology and Anthropology not only considered the products very funny but failed to perceive that they might be harmful.

Synnott's presentation was passionate, articulate, compelling and clever, even eliciting some nervous titters around the room as he drew his audience into what may have been, for some individuals, a startling first-time awareness of their own myo-

pia in the realm of gender issues — where they were putative experts.

At the conclusion of the presentation, I contained my urge to give Synnott a standing ovation and simply applauded politely, with the rest of the audience, and then waited with bated breath to see what would transpire during the question-and-answer period.

The discussion began with a Women's Studies professor objecting to a minor aspect of Synnott's presentation that happened to fall at its very conclusion — specifically, his characterizing the homemaking media maven Martha Stewart as manifesting feminine aspects of power. In the professor's view, despite Stewart's sex, her power was actually of the masculine type. Respectfully acquiescing to the professor's schema of personal power, Synnott ceded the point to her. A couple of other people raised their hands and made similarly trifling remarks. Clearly, it seemed to me, more than a few audience members were squirming inwardly over having had their sensibilities challenged — and so effectively too! Whether by conscious design or compelled by unconscious avoidance strategies, those who felt most uncomfortable sought to fill

**PETER continues next page**

## TRANSITIONS

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## Peter

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the question-and-answer period entirely with trivial banter so that, when it was through, they could relegate the substance of Synnott's presentation to distant corners of their minds, where eventually its memory could fade away to nothing.

My moment to take action had arrived: I raised my hand. When called upon, I told Synnott that I thought his presentation was terrific and I wished that an entire conference could be devoted just to the myriad of issues he had mentioned. Acknowledging to the group that I was present at the conference as an activist, not an academic, I nevertheless had a suggestion for everyone's consideration: How about conducting research into understanding and coming to grips with our own blindness to the male experience of violence and suffering?

Around the room, my remarks were met with thoughtful expressions and nodding heads.

Then a Women's Studies professor spoke up. Earnestly, she entreated the group, "We need to avoid entering a compe-

titution to determine who suffers more, men or women!" She finished her speech by locking her gaze with mine — and if looks could kill, well, you would be reading this in the form of a transcript from a séance with a trance medium who had channeled my words from The Great Beyond.

Her words had nothing to do with what I had said. I had suggested investigating attitudes towards male pain, not even evaluating how much of it there is, let alone calibrating it and comparing it to female pain in an attempt to initiate a "competition." But for this woman, apparently my statement constituted such a serious threat to extremely shaky underpinnings of some sort of cherished ideological construct of Supreme Female Victimization that, for her, it felt as if this is what I had said.

This narcissistically irrational departure from the topic of male pain was bolstered by another Women's Studies professor, who proceeded to recite a litany of five or six instances of (alleged) male-on-female sexual harassment and rape at her university that had not been prosecuted in a satisfactory manner. Her words ran trippingly off her tongue, like an oft-repeated prayer or

favorite poem.

Bizarre as it seemed, for these two professionals ostensibly interested in "men's studies," apparently any discussion of human pain and suffering automatically needed to be focused exclusively on the female experience. In my view, what these women were telling me with their finely-tooled language boiled down to little more than a hysterically reactive admonition that could better have been stated using just two words: "Shut up!"

Synnott perceived an even deeper level of hostility. As the discussion progressed, he had occasion to look in the direction of the second woman and assert, "We've basically heard it stated, right in this room, that all men are rapists."

Later in the day, back at our hotel, Jason and I ran into Synnott, who thanked me heartily for speaking up at his presentation and preventing it from deteriorating into a complete thrashing of his ideas.

"How do I get in touch with NCFM's Montreal chapter?" Synnott asked.

Would any Canadian Transitions readers be interested in forming one?

## Book Reviews

By J. Steven Svoboda

### *Why Men Earn More: The Startling Truth Behind the Pay Gap—and What Women Can Do About It.*

By Warren Farrell, Ph.D. New York: AMACOM, 2005. [www.amacombooks.org](http://www.amacombooks.org). [www.warrenfarrell.com](http://www.warrenfarrell.com). US \$23.00. 270 pages.

A new book from Dr. Warren Farrell is of course eagerly awaited by all of us who care about gender equity. I dare say that each of his books represents an evolution since the publication of the previous one, both in terms of Warren's own growth and in terms of society's developing awareness of, and willingness to hear more regarding, pertinent men's and women's (and people's!) issues.

*Why Men Earn More* is both more of the same from Warren and at the same

time, something fairly different from anything we've seen or heard before, not just from him but from anyone. It's more of the same in the very best way. The book is meticulously researched and packed with those mellifluous, instant-slogan encapsulations that no one else seems to be able to put together quite like this particular author. Even someone who has read relatively widely on gender issues is bound to learn a number of new points and viewpoints from each of Warren's books, and this one is no exception. *Why Men Earn More* retains Warren's focus on gender equity through development of awareness regarding current gender inequity.

And *Why Men Earn More* is different too. It moves toward its goals in a different manner, by focusing on what women can do to earn more in the workplace. I believe Warren is again blazing his own

trail in writing a book that treats this topic from a perspective aware of men's rights as well as women's rights. This is no Trojan horse; the book is genuinely a guide for women, and a highly instructive one at that. Along the way, there are plenty of opportunities of which Warren avails himself to discuss men's issues. (And by the way, folks, this book is this year's *lead* title from that well-known "radical" group, the American Management Association.)

Ways that women can expand their earning power are smoothly connected up to central issues in each of Warren's past gender transition movement books. For example, women who use his 25 steps and thereby get higher pay will not need to feel the need to "marry up" and, as Warren phrases it, "the man doesn't feel he has to compete to be the 'up' in order to earn her love." (See *Why Men Are the Way They Are*.)

Warren takes previous analyses of the benefits of competitive team sports (which teach how to strike a balance between individual and team needs) one step further with a detailed explication of the particular advantages of pickup team sports. He writes, "If organized team sports develop managerial skills for a corporate setting, pickup team sports are more like training to be an entrepreneur." (See *Women Can't Hear What Men Don't Say*). Fear of male sexuality leads to blatant discrimination against men in such jobs as social worker, dental hygienist, massage therapist, obstetrician-gynecologists, nurses, nursery school teachers, and elementary school teachers. For some jobs, e.g., elementary school teacher, dental hygienist, and would-be restaurant hosts, cocktail waiters, hotel housekeepers, and clothing salespersons, men face an absolute level of discrimination not faced by women anywhere—a virtually complete inability to get a job (See *The Myth of Male Power*).

Why is it, Warren asks, that we were comfortable telling people unused to females in certain jobs, "Tough, get used to it," but we are not willing to say the same thing today now that the tables are partially turned? Yet our children suffer horrendous damage from the absence of men in the family and in elementary school. Warren combines a neat mnemonic device with a pithy formulation when he writes of "the five D's" that are much more common in single-mother homes than in single-father homes—depression, disobedience, delinquency, drinking, and drugs. (See *Father and Child Reunion*). Then there is the 5-to-1 "genetic celebrity" pay gap in such areas as modeling. (See *Women Can't Hear What Men Don't Say*).

*Why Men Earn More* is not a men's rights book, however. It is a book about how women can expand their earning power, by taking one or more of 25 steps that men (and some women) have used to justify expanded compensation for their work. Warren is now a (step)father of two daughters who are just reaching college age, and thoughts of their future possibilities clearly influenced his work on this book.

The author is constantly ferreting out of sources like the US Census Bureau figures that are unpublished and, I would guess, that no one really wanted ever to be publicized. So we learn, while still in the

book's introduction, that a part-time working woman makes \$1.10 for every dollar made by her male counterpart, and also that, when education is held constant, never-married men earn only 85 cents for every dollar earned by never-married women. Want to learn about (count 'em!) 39 fields in which women earn at least 5% more than similarly qualified men? Turn to the chart on pages 12-13. Want to see apparent pay inequalities disappear as dissimilar factors between men and women are accounted for? Turn to Table 12 and watch a 141% ratio of male physician salaries to female physician salaries turn into a dead-even 100%, right before your eyes.

Of course, as the author notes on the same page, studies that do not find a pay gap against women are never repeated, so it is hard to get the truth out. Contrary to popular belief and media myth, prior to the age of 40, women are an astounding 15 times more likely to become top executives at major corporations. Despite the fact that "men executives work more hours, travel more, move more, and ... make more of almost all the sacrifices discussed in this book." And that's not all: "Ironically, the government sponsors for women what it condemns for men: the buddy-boy network is called discrimination; the buddy-girl network is called the law."

From March 2003 to July 2004, 195 male US Marines died in Iraq. Want to guess how many female Marines died during the same period? Ten? Five? Try ZERO!!! Although active-duty military personnel are 15% female, only 2.3% of the soldiers killed in hostile action in Iraq lack a Y chromosome.

Warren points out that hazardous jobs are oh so much less hazardous for women, who typically glean the extra hazard-based pay without being subjected to the same dangers on which the extra compensation is based. So one way to raise your earning power as a woman is to work in a hazardous region. Typically, you won't be in danger; only your male colleagues will be! Another similar strategy is to work in a hazardous field such as police, firefighters, or US Park Service rangers, again with the likelihood that you will receive extra pay without the same extra danger men face. A related observation the author makes later again imports men's issues: "When male disposability backfires into female disposability [as when a falling rafter that killed a woman pedestrian led to stricter construction safety regulations], the political will surfaces to pass legislation that forced the modification of rules."

One strategy for raising pay is to choose a job where you can't check out at the end of the day. As Warren aptly phrases it, "We get prestige and pay to become psychologically enmeshed, or, if you will, career codependent." Another strategy is to take on different responsibilities even when your title is the same; corporate vice-presidents in charge of finance or sales (more typically male positions) are paid more highly than vice-presidents in charge of human resources, communications, and public affairs (jobs more often held by females relative to finance and sales).

The author adroitly notes a logical fallacy in the common assertion that low pay

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## Volunteer Needed for Men's Hotline

NCFM is in need of someone to operate our "hotline". What this means is that you would get about one call every week or two from someone needing assistance. You should be familiar with the court system as well as men's resources and be able to offer some support to callers. All calls are returned COLLECT, so you won't incur any costs. If this sounds like something you'd like to try, please contact Naomi at 516-482-6378 or [susansusansusan@hotmail.com](mailto:susansusansusan@hotmail.com).

## Reviews

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for teachers “is a sad commentary on our values.” It also reflects positively on our values; we love children so much that we have a large supply of potential child-raisers, whom we only need compensate modestly in order to keep them at such an appealing job. Warren boldly predicts that in the coming decade, as we come to appreciate children’s need for both male and female caretakers and role models, the biggest teaching opportunities will be for men in elementary and junior high school. (I hope he is right.)

Similarly, the author comes out in defense of hierarchies, which “were and still are men’s way of creating standards of

holding each other accountable.” Far from being “a strategy designed to benefit men at the expense of women,” the author notes that hierarchy was “a strategy to get men to pay the expenses of women!”

Warren’s skills at uncovering little known facts and his writing craftsmanship are both on display when he notes that “homes in blue-collar towns such as Erie, Pennsylvania, had separate basement entrances so the husband could rinse and change rather than get the home dirty. (A man’s home was his castle as long as he obeyed that little unwritten sign: ‘Husband must enter through the basement... with a paycheck!’)” Two pages later, we learn that women (and men) can raise their pay by

seeking a field requiring the need for updating knowledge: “Currency begets currency.” Who can help smiling at the author’s passing reference regarding boyhood sexual experiences to “the end of rejection (also called sexual intercourse)”?

As if all this wasn’t enough, in closing, Warren neatly, quickly decimates two possible leading counterarguments against this book: 1) He explains why pay often decreases in a field after women enter it in greater numbers, and why this does not represent anti-female discrimination. 2) He cuts to shreds as simultaneously sexist and classist both the economic and philosophical bases for the monstrosity known as “comparable worth.” The author provides us with six take-home recommendations to do what you love, be with those you love, and still be economically secure: put in the hours, hire, work from home, form community, choose your partner carefully, and help you children use your time and their time well. He also lists five critical points: 1) Women make more money than men for the same work. 2) Many other women make the same money men make for fewer sacrifices. 3) Many unskilled women have jobs rarely available to men. 4) Many skilled women have careers in which it is much more difficult for equally qualified men to find employment. 5) Some women professional athletes can make a living for achieving at a level not afforded to a man achieving at that same level. Why has all this come to pass? Partly because, regardless of the evidence, we are psychologically and genetically invested in the belief that women earn less than men.

I believe an approach such as Warren undertakes with this book offers a promising step forward for our movement. Warren has already written *The Myth of Male Power*. It is time for another approach, a subtler approach, an approach capable of playing in Peoria. You may not love this book as much as you did *Myth*, but your childhood friend and your co-worker and your mother-in-law and your next-door neighbor’s daughter may love it more, whereas likely they would not even have opened *Myth*. Warren Farrell long ago demonstrated his willingness to sacrifice literally millions of dollars in earnings and wealth in order to pursue the hard road of

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speaking the truth about gender in this country. Many of us love him and/or love his books. But now it is time for all of us to get ready for a bit of tough love, for the world's sake. We may not adore Warren's recent and perhaps his coming work as much, but the game isn't about us any more. Nor, as I am sure Warren would be the first to agree, is it about Warren Farrell any more. It's about all those people out there, reasonable, fair-minded people, by and large, but human beings who are ignorant as to the issues we know and love. Reaching those people is our next battleground, and *Why Men Earn More* is as likely as any book to help us get there.

### *On their Own: Boys Growing up Underfathered.*

By Rex McCann. Sydney, Australia: Finch Publishing, 2000. 228 pages. www.finch.com.au. No price stated on book; website gives price as A\$21.95.

Long-time Kiwi men's group facilitator Rex McCann has written an engaging study of boys who grow up without present, involved fathers. Finch Publishing did its usual superlative job in producing a handsome, attractively formatted book.

The author helps ground the book by including pertinent pieces of his own personal story at the beginning of many of the chapters. Our generation, the author notes with some concern and even alarm, is the first to consider writing fathers out of the family script so extensively. Yet fathers are essential to their sons' (and daughters') development, as McCann expertly sketches out in eight well-conceived pages of his book (pp. 36-43). Whether fathers are unavailable due to death or physically departure or rather because they are emotionally isolated from their families, the toll on sons is undeniable. McCann writes that sons depend on fathers to show them how to live a full life. When they instead see Dad deny an interior life of feelings and imagination, as most of us who are now middle-aged did as children, this is nothing less than a betrayal. The father "betrays the son into life as a half-man," and all too often, unwittingly faithful to Dad's example, the son later as a father carries out a different yet similar betrayal of *his* son(s).

What about boys who lack a father of any sort? Five separate binds can arise

between single mothers and their fatherless boys: 1. problems in developing appropriate love and discipline; 2. pushing the boy into the role of "man of the house"; 3. mother becoming the gatekeeper of the boy's relationship with his absent father; 4. formation of an unconscious sexual bond between Mom and son and other difficulties developing a healthy sexual identity; 5. excessive conflict between mother and son. McCann's practical pointers for single mothers include establishing a stable base in the community; meeting one's own emotional needs without need for "help" from one's son; accepting that the son needs men and fostering his relationships with them; choose male role models for your son; asking for help raising him.

Such books all too often devolve into enlightening and pleasurable experiences offering scant practical help. What, for example, is a single mother aware of her son's need for a father to do when the biological father is not available? One mother held a block party and invited all the neighbors, then went so far as to announce at the party that she was looking for men to help provide her son with good male role models and asking if anyone could help. The response was overwhelming.

McCann theorizes that the journey from boy to man involves four stages: 1. bonding with and later separating from his mother; 2. bonding with and later separating from his father; 3. finding himself a community of male mentors; 4. experiencing a second birth by connecting heartfully with other men and thereby accessing his own emotional self. For a man to meet women fully, the author writes, he must first meet men.

Naturally, many fathers are not absent by choice but by compulsion. Chapter 9 contains many sad yet touching stories from such Dads.

McCann addresses boys' needs for formal initiation ceremonies to act as symbolic touchstones for their own personal progression through the stages of their development. Soulful masculinity has a unique power that can be effectively accessed through ritual. Grief seems to be a doorway for many men to reconnect with their inner lives and stop trying to always be on top of everything. Grief allows them to feel, to fall apart and crumble, to descend. Male spirituality is crucial to boys and is

different from female spirituality, focusing more on solitude and aloneness.

So what do boys want from men? Above all, they want to be acknowledged as who they are, to be recognized, to have men reach past their defenses and assure them that they are okay. Boys want men to spend time with them and kindle their imaginations and do things with them that they enjoy and show them how to be a man in this world. They want an introduction to deeper levels of life lying below the surface.

For adult readers wishing to work on some of their own unresolved issues, McCann offers some sage thoughts on how to complete with your own father, whether or not he is still alive. You can build a bridge to your own father by seeking out his own story. How was life for him? What were his challenges? I must admit I am astounded by how rarely we hear this advice.

The author has a very interesting and detailed theory, repeated several times, that starts with the notion that the son somehow hopes for a relationship with his Dad that can be "as all-encompassing as his mother's love, with a male face." Though the son feels betrayal when he realizes the futility of this hope, nevertheless the father can introduce his son to the masculine world of feelings and spirituality in a way that no other man or woman can. Moreover, a father's role includes mentoring his son but also at some point letting down his son by not being equal to new issues and challenges raised by the boy. The boy must at some point redeem his father by going beyond him into the future and surpassing him at some level.

My only quibble is a minor one, with the author's half-baked, eminently unrealistic suggestion on page 200 that fathers seeking "financial acknowledgement for the unpaid work of parenting" make common cause with feminists, who are far from noted for their sympathy with fathers' desires and needs.

Very frequently adult sons have experiences raising their children that fill in what they missed with their own father, and which eventually lead them to reconcile with their own Dad. Near the close of his excellent book, Rex McCann interestingly observes that personal work healing the father wound parallels a similar process that is going on at the cultural level, so that personal healing work becomes social change work. "The world changes when we do."

# A Court Challenge Waiting To Happen: A Judicial Basis of Parenting as an American Citizen's Fundamental Right

By Wade C. Mackey, Ph.D.

## Part 2

Part 1 of this article appeared in the Jan/Feb 2005 issue.

In 1996, the court wrote in *M. I. B. v. S. L. J.* [95-853 U.S. (1996)] that the M. L. B.'s case "... demands the close consideration the Court has long required when a family association 'of basic importance in our society' is at stake." The Court again referred to *Santosky v. Kramer* [455 U.S. 745] ("clear and convincing" proof standard is constitutionally required in parent termination proceedings). Although both *Lassiter* and *Santosky* yielded divided opinions, the Court was unanimously of the view that "...the 'interest of parents in their relationship with their children is sufficiently fundamental to come within the finite class of liberty interests protected by the

Fourteenth Amendment'". The Court continued: "Choices about marriage, family life, and the upbringing of children are among associational rights this 'court has ranked as of basic importance in our society' [*Boddie* 401 U.S. at 376] rights sheltered by the Fourteenth Amendment against the State's unwarranted usurpation, disregard, or disrespect".

In *Troxel et vir. v. Granville* [99-138 U.S., (2000)], the court re-affirmed the parents' fundamental right to rear their own children and that the Federal Constitution permits a State to interfere with this right only to prevent harm or potential harm to the child.

Thus, the U.S. Supreme Court has repeatedly and repeatedly ruled that it is the

law of the land — federal law — that parenting is a fundamental right.

### Federal priority over the various states

There appears no serious doubt that federal law has precedence over state law. Namely, in Article VI of the U.S. Constitution, it is written: "This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby; anything in the constitution or law of any State to the contrary notwithstanding."

Two U. S. Supreme Court decisions, early in our country's history, clearly established the primacy of federal law over state law (*Marbury v. Madison* [1 Cr. 5 U.S. 137 {1803}] and *McCullough v. Maryland* [4 Wheat. 316 {1819}]). The ending of the Civil War provided a military answer with the same conclusion: in a contest between federal law and state law, the federal law wins. Accordingly, it is clear that if a state law were to be successfully argued to conflict with or to contravene a Federal law, the Federal statute would be pre-potent or have precedence. It is suggested here that an excellent candidate for such a conflict would involve the following ingredients: (1) an unwilling respondent (2) who is legally prevented from (3) co-residence with (4) his or her own minor child, (5) by a no-fault (6) state divorce law.

### "No-fault divorce" and minor children

Let's imagine that a divorce which is petitioned by one parent (the petitioner), but is unwanted by the other parent (the respondent). Let us further imagine that the petitioner is the mother and the respondent is the father. The divorce will occur. The respondent has no legal means to prevent its occurrence. And, despite judicial pronouncements of gender equality in

TABLE 3.

Perceptions of who wanted the marriage to end by gender of spouse (from the National Survey of Families and Households [Chadwick & Heaton 1992])

Spouse Responding	Perception Of How The Marriage Ended By Divorce					
	Husband wanted divorce; Wife did not	Husband wanted divorce more	Both spouses wanted divorce	Wife wanted divorce more	Wife wanted divorce; Husband did not	Other
	(1)	(2)	(3)	(4)	(5)	(6)
Husband	9.4%	8.7%	35.8%	15.9%	18.7%	11.5%
Wife	8.1%	9.3%	23.7%	20.0%	29.6%	9.3%
Husband	(1) + (2) = 18.1%					
	(4) + (5) = 34.6%					
	((4) + (5)) / ((1) + (2)) = 34.6% / 18.1% = 1.91					
Wife	(1) + (2) = 17.4%					
	(4) + (5) = 49.6%					
	((4) + (5)) / ((1) + (2)) = 49.6% / 17.4% = 2.85					



custody decisions (Cornick 1995, McIntyre & Sussman 1995, Westfall 1994, Weyrauch & Katz 1983), the *de facto* reality is a strong bias toward awarding child custody to the mother. In some jurisdictions, mothers gained custody in 90% of the divorce cases (Fox & Kelly 1995, Sack 1987, Sitarz 1990; cf Greif 1985). In fact in 1998, the same number of minor children were living with neither parent (4%) as with father-only (4%). Twenty-eight percent of the minor children were living with mother-only, and 64% lived with both parents (U. S. Bureau of the Census 2001).

The parent who loses custody is no longer allowed a guaranteed co-residency with the child. Furthermore, the non-custodial parent is not granted access to the child's domicile. "Visitation" translates into the notion that the child visits the non-custodial parent away from the home of the child. The severe diminishment of parent-child contact, in the context of a lack of co-residency, could be argued to place a severe burden on the parent, i.e. the unwilling, non-residential respondent. The custodial parent — generally the ex-wife — can then serve as a "gatekeeper" and can effectively control contact between the child and the non-custodial parent — generally the father. How the custodial parent fulfills the role of "gatekeeper" more depends upon that individual's circumstances and personality than upon legal edicts (Braver et al. 1991, Dudley 1991, Parke & Brott 1999). To the extent that a legal brief can argue that the removal of co-residency interferes with parenting, the stronger the case would be made.

The government is simply not in a structural or functional position to effectively influence the level of interaction between the non-custodial parent and his/her child. Accordingly, one parent — usually the father — is denied, by state law, the opportunity to exercise a "fundamental right" as guaranteed by the U.S. Constitution. But, federal law has precedence over state law, and therein must lie an intriguing tale yet to be told.

### Synopsis

It is a logical category that a/any challenge to "no-fault" divorce", which (1) involves minor children and (2) an unwilling respondent, who becomes non-custodial, will never be presented before the U.S. Supreme Court. But the more likely probability is that the putative

unconstitutionality of such no-fault divorce laws will eventually be brought to the Supreme Court. Nonetheless, the task is daunting. The time and resources needed to wend through the local, state, and federal court systems, then to the U.S. Supreme Court are not inconsiderable.

Until such a test-case is brought before the U.S. Supreme Court, there will be a continuance of the *status quo*. The *status quo* is that parents — generally, but by no means exclusively the father — are being systematically denied — by a state law — the opportunity parent their children. This parenting is what the U.S. Supreme Court has already indicated and repeatedly re-affirmed as a "fundamental right" protected by the Fourteenth Amendment; i.e. protected by federal law.

But if such a test-case does thread itself through the local, state, and federal court systems, then the U.S. Supreme Court would, once again, collectively find itself in the role of Solomon. The U.S. Supreme Court could rule that (i) *Barber v. Barber* must be overturned and that (ii) the right to divorce is implicit in the U.S. Constitution and that, furthermore, (iii) the right to divorce has priority over the right to parent. Essentially, the swathe of law from 1923 (*Meyer v. Nebraska*) to 1982 (*Santosky v. Kramer*) to 1996 (*M. L. B. v. S. L. J.*) would be voided or, at least, seriously re-focused. On the other hand, the U.S. Supreme Court could agree that (i) parenting is still a federally guaranteed right, but (ii) divorce is not, and, thus (iii) any state divorce law which violates that right of parenting must be voided or, at least, seriously re-focused. If the latter decision should occur, then "fault" — due process — would have to be re-instituted into the divorce procedures, and much mischief would be unleashed. Whatever the final route taken by the U.S. Supreme Court, at whatever time in the future, such a decision would require serious people acting in a serious way.

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**TABLE 4.**  
**Top ten reasons that women gave for petitioning for divorce (by rank and by percentage of women who “checked” the reason for the divorce) for six surveys**

Survey, Rank, & Percentage						
	Cleek & Pearson (1985)		Burns (1984)		Gigy & Kelly (1992)	
RANK	REASON	(%)	REASON	(%)	REASON	(%)
1	Lack of communication	69.7%	Husband not home enough	46%	Growing apart	78%
2	Wife is unhappy	59.9%	Lack of communication	40%	Feeling unloved	73%
3	Incompatibility	56.4%	Sexual problems	40%	Sexual problems	64%
4	Emotional Abuse	55.5%	Other women	37%	Unmet needs	64%
5	Financial problems	32.9%	Financial problems	36%	Differing values	63%
6	Sexual problems	32.1%	Spouse's drinking	36%	Feeling belittled	59%
7	Spouse's drinking	30.0%	Wife's lack of interest	26%	Spouse's emotional problems	52%
8	Infidelity of spouse	25.3%	Husband's cruelty	21%	Financial problems	50%
9	Physical abuse	21.7%	In-laws/relatives	21%	Conflict over gender roles	47%
10	In-laws/relatives	20.0%	Disagreement over children	19%	Fighting	44%
	Thurnher et al. (1983) Divorces involving at least one minor child		Thurnher et al. (1983) Divorces involving no minor children		Greif & Pabst (1988) Divorces involving minor children	
RANK	REASON	(%)	REASON	(%)	REASON	(%)
1	Spouse's drinking	18.8%	Conflict in lifestyles	24.0%	Marital incompatibility	46.2%
2	Spouse has changed	17%	Idiosyncratic	19.5%	Husband was unfaithful	23.4%
3	Spouse is violent	16.5%	Financial reasons	17.1%	Husband had emotional problems	10.1%
4	Strife	16.1%	Wife wants increased	15.9%	Mentally abused	9.1%

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TABLE 4. (continued)

RANK	Braver (1998)	
	REASON	Percentage marked very important by mothers
1	Gradual growing part, losing a sense of closeness	57%
2	Serious differences in lifestyle and/or values	54%
3	Not felling loved or appreciated by spouse	45%
4	Souse not able or willing to meet major needs	41%
5	Emotional problems of spouse	38%
6	Husband's extramarital affair	37%
7	Severe and intense fighting, frequent conflict	36%
8	Frequently felt put down or belittled by spouse	35%
9	Spouse not reliable	33%
10	Problems and conflict with roles, i.e. division of responsibility for household jobs or other chores outside of house	29%

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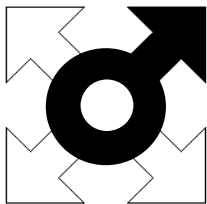
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