

Fathers, marriage and the law

The Government has announced plans to give Parental Responsibility automatically to some unmarried fathers. Research carried out at Cambridge University has looked at what fathers themselves, both married and unmarried, thought about the roles of fathers and of marriage in bringing up children. A major focus of the research was to explore married and unmarried fathers' knowledge of the law and their views on it. They were also asked about various other aspects of being a father, including the relationship between fatherhood and marriage. The research found:

- f** Three-quarters of all the fathers questioned did not know that there was a difference in legal status between married and unmarried fathers.
- f** There were two main reasons for this lack of knowledge about the law. First, fathers had not heard about the law because there is a lack of accessible information. Second, fathers found the law difficult to understand because it does not reflect what most fathers believed it to be, not least because it is at odds with other areas of the law concerning the family with which fathers were familiar, such as child support and income support.
- f** Few of the fathers in the study, whether married or not, had strong feelings for or against marriage as an institution, and the majority thought marriage was irrelevant to fatherhood.
- f** There were no differences between fathers in the study who were married and those who were cohabiting, with respect to their attitudes to, involvement with and commitment to their children.
- f** There were few differences in lifestyle or circumstances between the married and cohabiting fathers, although cohabiting parents tended to have been together for a shorter time prior to conception of their first child and were more likely to have begun living together as a result of the pregnancy.
- f** Almost all the unmarried fathers thought the current law illogical, unfair and out of date, and wanted to see a change.

Background

One of the most noticeable recent changes in family life has been the increase in the proportion of cohabiting couples who become parents without marrying. Whereas even two decades ago it would have been unusual for a couple not to marry before their child's birth, currently 28 per cent of babies are born to unmarried parents who register the birth together. Three-quarters of these couples give the same address on the birth certificate and so may be supposed to be living together. At least one in five babies, therefore, are being born to an unmarried couple cohabiting as a family.

However, there is a very significant difference in the legal status of married and unmarried fathers. When a child is born to married parents, both the mother and father automatically have legal powers ('Parental Responsibility') for their child. This allows them both to make all the important decisions for the child, such as deciding on the baby's name, upbringing, education, medical treatment, and religion. If the parents aren't married - even if they live together as a family and the man is registered on the baby's birth certificate as the father - only the mother automatically gets Parental Responsibility when the child is born; the father has no legal right to make any of these decisions. An unmarried father can acquire Parental Responsibility by making a formal legal agreement with the mother which must then be registered at a court. If the mother will not agree to this, then he may apply to a court which will decide whether he should be awarded it. Very few fathers do this.

In 1996, while over 230,000 babies were born to unmarried parents, only about 3,000 couples made Agreements and around 5,500 more fathers got Court Orders for Parental Responsibility. There are, therefore, many thousands of families in this country where the father is not legally entitled to make important decisions about the everyday care and upbringing of his child.

The research set out to find out what today's fathers themselves think about the relationship between fatherhood and marriage, and whether there are any differences between those fathers who choose to marry and those who do not. It was also intended to discover what fathers know about the law on Parental Responsibility, why Agreements and Orders are being so little used, and what kind of problems fathers had encountered as a result of the current law. Fathers in the study were also asked for their views on a possible change in the law.

Fathers' knowledge of the law

Fathers were asked about a range of situations where the law on Parental Responsibility is relevant, such as fathers' liability for child support and whether a father is legally entitled to care for his child if the mother dies.

The research found that four out of five fathers, both married and unmarried, were aware that a father is liable for child support, irrespective of whether the father is married to the child's mother. However, on the question of what would happen if a child's mother died, three-quarters of fathers wrongly thought that an unmarried father would be legally entitled to look after his child.

There were two main reasons for these discrepancies in fathers' knowledge. First, there is a lack of accessible information about the law. There has been a great deal of publicity about the Child Support Agency; most fathers, even those who had never had any contact with the Agency, had heard about it and were aware of fathers' financial responsibilities. Very few, however, had heard anything about the law relating to Parental Responsibility, and most felt it was wrong that no information is offered to parents about it.

Secondly, the law is at odds with other areas of the law relating to the family with which people are familiar, such as child support and income support where it makes no difference whether parents are married. Most fathers, therefore, assumed that marriage would not be relevant to the role of a father. As one father put it:

"I mean I get the same, I get the tax relief on Lucy, get the same kind of benefits, that we would if we were married or not."

Another father said:

"So much is now ... heard about the ... Child Support Agency, the, the fact that you are now so much more regarded as the father The father's role either inside or outside marriage is quite well defined, purely for the purposes of getting the child support money back so, there's a, you know, that the other side of the coin must be true."

All this made the law difficult to understand, and fathers were often confused that the fact they had registered on the birth certificate as the father, or actually lived with the child, made no difference.

"I didn't think there was any difference. I thought like if the child's yours and you sign the birth certificate ... at the end of the day it's your child."

Fathers' problems with the law

Fathers who had used the legal process to apply for Parental Responsibility reported a range of problems which had prompted their legal actions. The majority were involved in contact disputes with the mother, which had arisen after their relationship broke down. Other problems included hospitals refusing to allow fathers to give medical consent, schools refusing to provide information about the child's progress, and a battle with grandparents over who was to care for the child after the mother died.

This father had accompanied his child to a specialist hospital 50 miles away while the child's mother remained at home to look after their other baby.

"One of them's got heart problems. Last year I had to go to [hospital] with him. You know he's going to have his pacemaker changed, but when it come down to it, the first question they ask me is, was I married? And I said 'Well, no' - then they said to me I can't sign for it. Which is ridiculous, because I was there. The mother wasn't. They had to ring up, call up the mother to come down, right, you know, so that she can sign, right. Even though I'm the father like and you know I've been there all week."

Fathers' views of the law

The majority of unmarried fathers in the study either found out about their lack of Parental Responsibility as a result of a problem arising or during the course of the research interview. Reactions ranged from disbelief and bewilderment through to anger and fear. Many thought that the current law undermines their role as fathers.

"Well I think, I think, it devalues fatherhood, you know, it, it's taking away some of my role of being her father. Just because the fact that I haven't, you know, I haven't signed a bit of paper."

All those who were cohabiting or supporting their children said they could see no difference between their situation and that of a married father.

"I would base it on that except [for] a marriage certificate, I'm basically living a married kind of life. You know the full family life."

There were many criticisms of Parental Responsibility Agreements not least where fathers thought that there should be equality between mothers and fathers. Others thought that having to raise the issue with the mother would be difficult because it might imply a lack of trust. This father, who had done so, said:

"It was difficult because I had to basically approach her from the point of view that it was something I was requesting, almost as a favour, and although she didn't have any theoretical objections to it, she was suspicious of the motives."

Married and cohabiting fathers - similarities and differences

The married and unmarried cohabiting fathers were found to be very similar in terms of their circumstances, experiences of fatherhood and their outlook on it. Almost all the fathers in the study were very positive about being a father, and there were no differences between the two groups in such factors as their reported involvement with the pregnancy and the birth, and participation in childcare. Both groups had almost identical views on the effects of fatherhood on their lives and their feelings about it. The two groups were also very similar in respect of such factors as employment and home-ownership. There was only one significant difference in that the cohabiting group had fewer educational qualifications.

With respect to the relationship between the parents, however, there were some significant differences between the groups. The relationships between cohabiting parents prior to the birth of their first child were shorter than those of the married parents. The average length of a couple's relationship before the birth of their first child was 30 per cent longer amongst the married group. There was also a significant difference between the married and cohabiting fathers as to whether conception had preceded the couple setting up home together. Only one of 38 married fathers said that living together began as a result of the pregnancy, compared with 10 of 31 cohabiting fathers. A significantly higher proportion of pregnancies were also seen as 'unplanned' amongst the cohabiting fathers. The relationships of the cohabiting group did tend, therefore, to be less established than those of the married group.

Marriage and fatherhood

Although some married respondents felt that it was important to be married before starting a family, others felt that marriage was a matter between adults and was not relevant to the father/child relationship. The majority had cohabited prior to marrying and few had strong beliefs about the importance of marriage to society, most saying it was a matter of personal choice.

"Even though I'm married, I don't see really why you have to get married. As long as you're happy, I mean a piece of paper at the end of the day ... it doesn't

change the way you feel about each other. I mean we didn't feel any different after we were married than we did before. Apart from the expense."

Few unmarried respondents were strongly opposed to marriage and most said they had not married because it was not a priority, particularly with the expense of a home and a baby to care for. However, all these men thought that whether they were married or not had no relevance whatsoever to the father/child relationship. This father, who had one child from a previous married relationship and a second child in his current unmarried relationship, said:

"In all but the marriage certificate, everything is the same, financial outlay, emotional commitment, everything is exactly the same as. A married father doesn't look after a child any more expertly."

Some unmarried fathers were concerned that their children might experience prejudice from others, and a few said they might consider marrying to circumvent any possible problems. However, the majority thought the law was out of touch with the reality that many people no longer see marriage as a priority, and that it should be changed.

"Being married or not married shouldn't really make a difference, no. Because I think it's so popular nowadays for people live together and whatever and not to be married."

Conclusion

The Lord Chancellor's Department has announced plans for the Government to bring forward legislation to give Parental Responsibility automatically to fathers who register on the birth certificate. This research indicates that because the law is at odds with many other aspects of family law and was seen by most respondents as illogical, unfair and out of date, there appear to be strong arguments in favour of such a change. However, the research also suggests the need to widen the scope of such legislation to include other groups of unmarried fathers. The researcher concludes that there is an urgent need for information to be provided about Parental Responsibility at appropriate places, such as antenatal clinics and birth register offices, not least because any change in the law will not affect the situation of existing unmarried fathers.

About the study

This research was undertaken by Ros Pickford, of the Centre for Family Research at Cambridge University. A total of 219 fathers took part. A quantitative survey was conducted using a postal questionnaire which was sent to fathers drawn randomly from two regional Birth Registers for a particular year, and so all had at least one child under two years old at the time. There were 154 respondents (61 married and 91 unmarried). The sample came from a wide range of social backgrounds. About half of these fathers were then interviewed for the qualitative part of the study. In addition, 65 unmarried fathers who were using the legal process to acquire Parental Responsibility for their children were recruited through the Courts, and were also interviewed.

How to get further information

The full report, **Fathers, marriage and the law** by Ros Pickford, is published for the Foundation by the Family Policy Studies Centre (price £10.95, ISBN 1 901455 37 8).