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BOOK NOTES

Adjusting to Unconventional Families in a Changing World

Family in Transition: Rethinking Marriage, Sexuality, Child Rearing and Family Organization. By Arlene S. & Jerome H. Skolnick. Glenview, Illinois: Scott, Foresman and Company (6th ed. 1989). Pp.vii-xiv, 623.

The children button their coats and leave for school just as father grabs his briefcase and is off to work. Meanwhile, mother finishes clearing the breakfast dishes and embarks on her day filled with PTA responsibilities, household chores, and preparation of a well-balanced dinner to be enjoyed by all when father arrives home promptly at 6:00. A scene from "Father Knows Best"? "Leave It to Beaver"? It would almost have to be since only a minority of contemporary families fit this "nuclear" family mold.

Modern families run the full gamut of divergent compositions: single-parent households, dual income families, unmarried cohabitants, four-parent families and step-relatives, multiple generation households, homosexual couples, and children conceived through reproductive technology. Indeed, present families defy easy classification. Parents and children alike must struggle to meet the increasing challenges of a world in flux, a world where values and ideals are at best uncertain and undefined.

Arlene and Jerome Skolnick have once again collected new articles reflecting contemporary changes in family life and have presented them with many of their "old favorites."¹ *Family in Transition* (6th ed.) sheds light on issues that before were largely separated from the mainstream and confined mostly to the circles of academic debate. Some of the contemporary issues

1. A. SKOLNICK & J. SKOLNICK, *FAMILY IN TRANSITION* vii (6th ed. 1989).

treated in this latest edition include the rights of homosexuals, surrogate parenting, AIDS, and abortion.

These subjects and other issues have surfaced to become today's most controversial family topics. In the introduction to the book's first section, "The Changing Family," the Skolnicks offer one possible suggestion why this is so: "The family grabs us where we live."² This first section concentrates on the diversity of contemporary families. What the Skolnicks want to highlight is the "enormous variation that is possible in family structure and family organization through time and its accompanying economic and social conditions."³ This is the common thread tying all this edition's articles together—that society's changing perception of these varying conditions constitutes the "transition" of modern families.

This edition differs little in format from previous editions. The Skolnicks divide the book into five parts: "The Changing Family," which includes articles on family origins and demographic trends; "Gender and Sex," which treats gender as it relates to equality and intimacy; "Coupling," which examines theories on sex, love, marriage and divorce; "Children in the Family," which discusses the roles of parents and concepts of child-rearing; and "A Wider Perspective," which includes articles on variations in the family experience and the politics of the family. Since each part contains articles appearing in previous editions, a look at various new pieces best demonstrates the questions contemporary families face and the transition taking place in society's views on family issues.

Martha Farnsworth Riche's article, "Mysterious Young Adults," explores one of the most dramatic demographic trends of the last decade: "Grown children who won't leave home," a phenomenon that transverses socio-economic classes.⁴ Riche argues that today's younger generation refuses to embark on their own since what they enjoy at home—at mom and dad's expense—is just too good to give up. Children do eventually leave; it's just that contemporary young adults are taking longer, perhaps because more are postponing marriage.⁵ While later mar-

2. *Id.* at 21.

3. *Id.*

4. *Id.* at 123. Riche cites one example of a millionaire who converted his son's bedroom into a billiard room, "only to find the new graduate back home, sleeping on an air mattress atop the billiard table." *Id.*

5. *Id.* at 124.

riages do account for most of the trend,⁶ money also seems to be an underlying factor. Census statistics suggest that the richer the parents, the longer it will take their children to leave.⁷

Riche believes that the phenomenon is not "really a cause for worry."⁸ What the article does not consider, however, is that this demographic shift comes at a time when the family's breadwinners are being hit financially from all sides. The current middle-aged generation is now having to care for the growing number of retirees—parents no longer working past age 65 who can expect a life spanning well into their late seventies and beyond. Moreover, this "failure-to-leave-the-nest" trend usually occurs at the time when most couples with older children are contributing heavily to their own retirement accounts. The result? Household supporters often find themselves financing their aging parents' needs, trying to establish a large enough nest egg of their own, and trying to meet current expenses, and all this in addition to supporting their adult children.

Another dilemma facing contemporary families is how to adjust when both the husband and wife work outside the home. *The Division of Labor in Contemporary Marriage: Expectations, Perceptions, and Performance*,⁹ by Dana V. Hiller and William W. Philliber, exhibits the problems of maintaining a household when one spouse (most noticeably the wife) is not in the home on a full-time basis to manage household affairs. Hiller and Philliber examine what modern working couples think contemporary roles should be¹⁰ and whether they are actually sharing responsibilities. Based on a survey of 489 midwestern couples,¹¹ the authors conclude that although expectations are becoming more egalitarian, actual behavior continues to follow traditional paths. For instance, two-thirds of the husbands surveyed either approved of their wives working or wished that

6. Other explanations include divorce (which drives children back home) that children simply never marry, and that children are still in school. *Id.* at 124-28.

7. Over a third of the men surveyed in 1985 who were between the ages of 25-29 and still living at home were in households with an annual income of \$50,000 or more. *Id.* at 127. Riche argues that such figures suggest children of wealthy families remain house residents longer because it will take them more time to replicate their parents' life styles. *Id.* at 124.

8. *Id.* at 127.

9. *Id.* at 180.

10. Hiller and Philliber limit their study to four family roles: "childcare, housework, money management, and income earning." *Id.* at 182.

11. *Id.* at 180-81.

they did work.¹² However, a majority of the husbands¹³ thought it was important to earn more than their wives, while nearly three-fourths still believed "that income earning was the husband's job."¹⁴ What does this mean? According to the surveyors, "[m]ost husbands were comfortable with having their wives work—as long as the man is still the main breadwinner."¹⁵

The authors reveal other expectation/behavior discrepancies in childcare and household chores. What husbands thought they should be doing differed significantly from what they actually did.¹⁶ Hiller and Philliber's study shows that over four-fifths of the couples expected to share childcare responsibilities, yet less than half did. Similarly, more than half of the husbands expected to share in housework, but only a third said they actually share even two tasks equally.¹⁷

The "transition" of modern families represented by Hiller and Philliber's article is society adapting to the increased number of women, married or single, who work outside the home. The authors' study suggests that although families are embracing more progressive attitudes in theory, traditional roles continue in practice. A large number of husbands apparently enjoy the financial advantages of two incomes but are slow to alleviate the household responsibilities wives have traditionally assumed. As the surveyors conclude, inequality at home will continue to breed inequality outside the home: "[T]he ability of women to compete equally with men in the public worlds of work and politics will suffer until they are equally free of—or equally burdened by—the constraints of housework and childcare."¹⁸

Part 3 carries this notion of modern inequalities even further in *Mothers & Divorce: Downward Mobility*.¹⁹ Terry Arendell presents a disturbing study on the economic downward spiral most women suffer after divorce.²⁰ Arendell argues that

12. *Id.* at 190.

13. 58%. *Id.*

14. *Id.*

15. *Id.*

16. *Id.* at 191.

17. These two tasks were dishwashing and shopping. *Id.* at 191.

18. *Id.*

19. *Id.* at 328.

20. Arendell limits the study to eight Northern California counties, which in some aspects might diminish its applicability because California recognizes community property rights. *Id.* at 328. At least these women could use their community property claims to offset (at least initially) part of their economic decline. *See id.* at 335 (four of the women were able to either stop or reverse the financial hardships after receiving money

women enjoying middle-class lifestyles will find their economic stability threatened in the absence of their husbands' incomes, despite their pre-divorce expectations.²¹ The statistics and personal accounts of these divorcees would give any woman cause for concern when contemplating separation, no matter how unhappy the marriage.

Surprisingly few women realize before divorce that they will lose their middle class life style when the economic scales tip heavily in favor of their ex-husbands. Instead, divorce concerns for women typically center on the psychological effects they and their children might suffer.²² But the harsh reality is that after divorce, middle-class women—particularly those who do not work outside the home during the marriage—most often find themselves struggling just to survive. The onset of economic decline in turn breeds emotional despair, rather than vice versa.²³ And this sudden and unanticipated impoverishment causes mothers the most anguish over their children having to endure.²⁴

Women typically do not expect drastic reductions in their standard of living because of two primary misconceptions: (1) they expect to receive "reasonable" child support (which often fails) and (2) they expect to find jobs paying "reasonable" wages²⁵ when, many times, they have foregone education and work to raise their family. Moreover, while they lose what is many times the family's primary income, the costs of maintaining a family (such as housing, utility bills, food and clothing) remain fixed. Hence, they are unable to offset the reduced income by lowering expenses.

Two possible consequences could result for women in the 1990s from studies like Arendell's. First, women might take greater precautions before and during marriage to prepare themselves in the event of divorce. They might seek education, train-

and assets from their community property settlement); *see also id.* at 340 (two of the women used community property settlement awards to attend graduate school). Women in non-community property states are not so fortunate. The numbers, then, could be even worse if the study were expanded to other regions.

21. *Id.* at 328-29.

22. *Id.* at 329.

23. "Most found that economic uncertainties fostered depression, discouragement, and despair, and nearly all said they had endured periods of intense anxiety over the inadequacy of their income and its effects on the well-being of their children." *Id.* at 340.

24. *See, e.g. id.* at 338 (one woman's agony over her son's embarrassment for having to wear clothes that were too small).

25. *Id.* at 330.

ing, and work experience, and establish themselves financially through credit ratings, for example. Even so, women must first understand that home management and parenting will not be strongly "socially valued" or "legally recognized," either in divorce proceedings or in employment pursuits, as Arendell suggests.²⁶ But of course, preparing women for the possibility of divorce prevents the bleaker alternative—that women will remain in failed marriages—assuming they even have the choice, no matter how tragic the relationship. Hopefully, studies like Arendell's will inform and encourage precautions to prevent this distinct possibility.

Part 4, "Children in the Family," examines the bond shared between parents and their offspring. That relationship has raised important issues in both the legal and medical fields with the development of reproductive technologies. In her article, *Reproductive Technology and Child Custody*, Herma Hill Kay examines the "best interest of the child" standard as it was applied in the famous *Baby M* case²⁷ and offers a possible modification when the standard is used in surrogate parenting litigation.²⁸ The *Baby M* case sparked a heated debate over the rights of surrogate mothers and natural parents. The debate centered around the following two questions: Should surrogate parenting contracts be enforced? If these contracts are legally binding, must the wife be infertile? The *Baby M* case revealed the widespread fear that if the wife need not be infertile, middle-class women will be allowed to employ poor women as "breeders" of their own children.

Kay argues that the "best interest of the child" standard is inappropriate for surrogate parenting cases.²⁹ Such cases differ fundamentally from divorce custody cases, thereby justifying, at a minimum, a modification to fit the circumstances of the parents in surrogate parenting cases.³⁰ The judge upheld the surro-

26. *See id.* at 329.

27. *In re Baby M*, 13 Fam. L. Rep. (BNA) 2001 (Apr. 7, 1987). *But see In re Baby M*, 217 N.J. Super. 313, 525 A.2d 1128 (1987), *aff'd in part, remanded*, 109 N.J. 396, 537 A.2d 1227 (1988).

28. The "best interest of the child" standard was first developed in cases where the natural parents had been married to each other and were divorcing. Kay notes that even in this context, the primary standard was not "the best interest of the child" but one giving a "maternal preference" in cases involving young children. *Id.* at 411. The father could obtain custody only by proving the mother was somehow "unfit." *Id.*

29. *Id.* at 412.

30. *Id.*

gate parenting agreement and required specific performance, which in this case provided for the surrogate mother's delivery of the baby to the childless parents.³¹ The judge in the *Baby M* case then invoked the "best interest of the child" standard merely as one more legal requirement for specific enforcement of the agreement.³² The judge in the *Baby M* case relied upon a nine-point test to assess the child's best interests.³³ These factors, when considered in light of the presumption favoring the surrogate contract, will favor the parents who are "better educated, more affluent, and more socially acceptable."³⁴ That couple will usually be the sperm donor and his wife in surrogate custody cases. Kay argues that instead of providing an "optimal solution in surrogate custody cases," the "best interest of the child" standard "provides no more than a convenient way of organizing the facts" with each case being "an ad hoc determination" that turns mainly on "the judge's point of view."³⁵ What should guide custody decisions in these cases instead is a recognition that the child born in surrogate parenting cases "has the same human and developmental needs as any other infant."³⁶ Again, the "transition" in surrogate cases is changing what rights the competing parties will enjoy according to society's developing perception of this type of nontraditional family.

31. 525 A.2d at 1166. The Surrogate Parenting Agreement was ruled invalid by the New Jersey Supreme Court, in re *Baby M*, 109 N.J. at 442-44, 537 A.2d at 1250, although the Supreme Court agreed with the trial court that in cases involving the rights of a natural mother as against a natural father, the best interest standard is still the appropriate one, 109 N.J. at 453, 537 A.2d at 1256.

32. 525 A.2d at 1166-67.

33. The factors for Judge Sorkow's nine-point test are as follows:

1. Was the child wanted and planned for?
 2. What is the emotional stability of the people in the child's home environment?
 3. What is the stability and peacefulness of the families?
 4. What is the ability of the subject adults to recognize and respond to the child's physical and emotional needs?
 5. What are the family attitudes toward education and their motivation to encourage curiosity and learning?
 6. What is the ability of adults to make rational judgments?
 7. What is the capacity of the adults to instill positive attitudes about matters concerning health?
 8. What is the capacity of the adults in the baby's life to explain the circumstances of origin with least confusion and greatest emotional support?
 9. Which adults would better help the child cope with her own life?
- Id.* at 415.

34. *Id.* at 416.

35. *Id.* at 417.

36. *Id.* at 418.

In their introduction to the book's final section, "A Wider Perspective," the Skolnicks point out that the "forms" of contemporary families are not new. Rather, society's view of these forms has changed.³⁷ The family as an *institution* is not what is in transition, but what meaning we attach to the structures of unconventional families and the issues they raise. This contention is best illustrated in Kristin Luker's article on abortion, *Motherhood and Morality in America*. Terminating pregnancy is not a practice particular to this generation. Luker argues that the fire fueling the current abortion debate has little to do with the unborn child's interest.³⁸ Instead it has to do with what women see as their roles in society and the values they attach to motherhood. According to Luker, "pro-choice" women tend to be "educated, affluent, and liberal"; while "pro-life" women tend to have "already arranged their lives to support traditional concepts of women as wives and mothers."³⁹ Luker contends that the abortion controversy is really a debate about "the meanings of women's lives"⁴⁰ and what the role of motherhood means:

New technologies and the changing nature of work have opened up possibilities for women outside of the home . . . together, these changes give women . . . the option of deciding exactly how and when their family roles will fit into the larger context of their lives. . . . [T]his round of the abortion debate is so passionate and hard-fought because it is a referendum on the place and meaning of motherhood.⁴¹

Abortion, then, is another aspect of society's changing views on the diverse forms of the conventional family model.⁴²

The Skolnicks succeed in presenting such controversial issues with objectivity. However, some of the new articles focus entirely upon "studies" and resulting statistics.⁴³ Though the

37. "What we are actually witnessing today is not so much new forms of family living as a new way of looking at alternative family patterns that have been around for a long time." *Id.* at 474.

38. *Id.* at 535.

39. *Id.* at 476.

40. *Id.* at 535 (emphasis in original).

41. *Id.* (emphasis in original).

42. In the case of abortion, views are changing on the role of women in relation to motherhood.

43. See, e.g., Spanier, *Cohabitation in the 1980's: Recent Changes in the United States*, *id.* at 253; Hiller & Philliber, *The Division of Labor in Contemporary Marriage: Expectations, Perceptions, and Performance*, *id.* at 180; Exter, *How to Figure Your Chances of Getting Married*, *id.* at 128; Riche, *Mysterious Young Adults*, *id.* at 123; Norton, & Moorman, *Current Trends in Marriage and Divorce Among American*

Skolnicks begin each part with a brief introductory overview, the reader would benefit from a more meaningful analysis of such "studies" beyond just numbers.

One instance where the authors succeed in objectivity is in their commentary on the 1986 Supreme Court decision *Bowers v. Hardwick*⁴⁴ regarding homosexuals' right to consensual sodomy. The Court's opinion is all that appears in the chapter; however, the Skolnicks discuss the decision's "jurisprudential and sociological implications."⁴⁵ Specifically, they point to the Court's "judicial restraint": "the Court declined to overrule the legislature, because as an elected body the legislature represents and understands the values of the people."⁴⁶ However, the Skolnicks note that this same reasoning had not dissuaded the Court in previous cases from striking down other legislation governing intimate conduct.⁴⁷ Here, the Court turned to "sociological grounds" to distinguish *Bowers* from prior cases: "centuries of law and moral teaching have found homosexual sodomy to be impermissible."⁴⁸ According to *Bowers*, it is the community's interpretation of morality, then, that establishes the boundaries of law.

The *Bowers* decision is one of only a few selections relating to current law.⁴⁹ As such, this book is probably not one to consult as "legal" reference. However, the book provides an excellent sampling of what topics stand at the forefront of contemporary debates and how these issues affect modern families. Most informative, and perhaps most relevant for family practitioners, is the collection of statistical information gathered for the many diverse topics. *Family in Transition* (6th ed.) is important because it reflects and addresses the dramatic changes occurring in American family life over the last three decades since the Skolnicks began work on their first edition. It leads the reader through a series of complex, unresolved controversies, all of which represent changes to conventional family ideals.

Women, *id.* at 106.

44. 478 U.S. 186 (1986).

45. A. SKOLNICK & J. SKOLNICK, *supra* note 1, at 477.

46. *Id.*

47. *Id.*

48. *Id.*

49. Others include Herma Kay Hill's article on reproductive technology and child custody as it related to the Baby M case, Eli H. Newberger and Richard Bourne's article on the medicalization and legalization of child abuse, and Lenore J. Weitzman and Ruth B. Dixon's article on the transformation of legal marriage through no-fault divorce.

The traditional nuclear family is no more in danger now than it was when the Skolnicks began their series, or as it has been in the past. It will continue to exist, albeit as a minority of all American families, so change in the nuclear family is not the transition of which the Skolnicks write.⁵⁰ How society adjusts to variant forms of the nuclear family—be they single parent families, unmarried cohabitants, or two income families—instead comprises the “transition” of contemporary families.

Reviewed by Kristen H. Sorensen

50. *Id.* at 479.