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Exploring the concept in relation to fathers' experience with the
Family Law Court of Western Australia**

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**An Examination of Fathers' Satisfaction with the Legal System: Exploring the
Concept in Relation to Fathers' Experience with the Family Law Court of Western
Australia**

By

J.M. Hawes

B.Psych

A Thesis Submitted for Partial Fulfilment of the Requirements for the

Degree of Doctor of Psychology (Forensic)

At the Faculty of Community Services, Education and Social Sciences

Edith Cowan University

Date of Submission: August 2004

USE OF THESIS

The Use of Thesis statement is not included in this version of the thesis.

ABSTRACT

Although the importance of fathers' post divorce contact with their children has been linked with a better outcome for the children and is valued by society, studies in the United States and Australia have suggested that up to 30 percent of fathers do not maintain regular contact with their children post divorce. To date, the literature has focused mainly on demographic variables and some personal characteristics of the father. An area, which has been neglected, is the influence of fathers' perception of legal proceedings and rules on their contact with their children post divorce. This study aimed to explore the underlying concepts of satisfaction and examine fathers' perception of satisfaction in relation to their experience with the Family Court of Western Australia. This was done by utilising qualitative research methodology. Twenty-four fathers were interviewed using an interview schedule adapted from Tyler (1988). Results from the present study indicated that fathers' satisfaction was primarily influenced by a favourable outcome in relation to contact with their children. Factors found to result in dissatisfaction included fathers' feelings that their father role had been eroded, a perceived bias by the family law system in favour of the mother, and a lack of legal assistance and limited availability of legal personnel. In order to clarify a number of issues, a subset of ten fathers from the original sample were re-interviewed. Further analysis confirmed that fathers' unresolved issues in relation to their separation; strong emotions including anger and distress during the court process; and unrealistic expectations in relation to contact with their children, made dissatisfaction with the legal system, and in particular court outcomes, more likely. This research suggests that early intervention for fathers is needed to allow them to address any unresolved issues surrounding their separation, and the emotions such as anger and grief that often follow separation. Services, which provide legal

assistance and direction prior to entering and during legal proceedings, also appear to be necessary.

I certify that this thesis does not, to the best of my knowledge and belief:

- (i) incorporate without acknowledgment any material previously submitted for a degree or diploma in any institution of higher education;
- (ii) contain any material previously published or written by another person except where due reference is made in the text; or
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Signature ✓

Date.....25/1/05.....

ACKNOWLEDGEMENTS

To my family, for their love, encouragement and understanding

To my supervisor, Associate Professor Alfred Allan for his expertise, guidance and perseverance in completing this thesis.

To my friend Michelle Gobetz for her support and valuable suggestions

To the participants who were passionate about the topic and who were kind enough to give their time and share their experiences in order to make this thesis possible.

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INTRODUCTION

Divorce has become a common occurrence in Australia and this means that many children grow up with restricted contact with one of their parents, usually their father (Lehr & MacMillan, 2001). Psychological literature suggest that contact between children and their fathers post-divorce is important in that it may influence the well-being of the children (Clingempeel & Reppucci, 1982; Emery, 1988; Hetherington, 1979; Issacs, 1988), their relationship with their fathers (Shapiro & Lambert, 1999; Stone & McHenry, 1998) and it may finally impact on the psychological functioning of the fathers themselves (Shapiro & Lambert, 1999). However, research undertaken in Australia in 1992 established that about one third of divorced fathers did not have *regular* contact with their children (the researcher did not define regular; Gibson, 1992). Despite this fact, there is strong community support for the idea that both parents should have contact with their children post-divorce (Commonwealth, 2001; Funder & Smyth, 1996; Smyth, 2004).

Before proceeding it is necessary to highlight amendments made to the Family Law Act in 1995 in relation to terminology used in the family law arena. These changes aimed to reflect the continuing responsibility of both parents to their children, regardless of who they live with and to remove notions of *ownership* of children (Campbell & Pike, 2002). Therefore the new term of *residence* replaced the old legal term *custody* (see for example s 64B (7)(a) of the Family Law Reform Act, 1995) and *access* was replaced with *contact* (see for example s 64B(7)(b) of the Family Law Reform Act, 1995). Furthermore, parent's *rights* were reframed as parent's *responsibilities* (see s 61B of the Family Law Reform Act, 1995). These amendments to the Family Law Act (1975) in 1995 were introduced in an attempt to increase the

contact between divorced parents and their children (Funder & Smyth, 1996). There have also been other investigations by the Commonwealth to examine family relationships after divorce. One example is the Family Law Pathways Initiative, which identified that men were concerned about difficulties in having child contact orders enforced (Commonwealth, 2001). Subsequent to this study, the Commonwealth conducted another study which explored factors which should be taken into account in deciding the respective time each parent should spend with their children post separation. The study also examined whether there should be a presumption that children should spend equal time with both parents following separation, and if so, in what circumstance this could be rebutted (Commonwealth, 2003). Another example is a study by the Australian Institute of Family Studies, the Parent-Child Contact Study. This study is a component of the larger Caring for Children after Parental Separation project (Smyth, 2004). A key finding of the latter study was that perceptions of mothers and fathers differed markedly where father-child contact was tenuous. Mothers perceived fathers not to be interested in being involved with children and fathers believed that mothers cut them out of their children's lives (Smyth, 2004).

Despite these amendments and reports, it is important to note that research by Rhoades, Graycar and Harrison (2001) found no evidence of changing patterns in regard to the involvement of divorced fathers with their children. It therefore appears necessary to further examine factors that may influence the quality and quantity of contact between children and non-residential parents, particularly their fathers.

Past research has examined factors that may influence father-child contact. This body of research has primarily focused on demographic factors such as the age of the children, the marital status of the mother and father, and the geographical

distance between father and children (Stephens, 1996). Personal factors, such as fathers' educational status and income were also considered, but it has been noted that this research often used the mother as informant rather than the father (Stephens, 1996). As can be expected, the quality of relationship between the parents have been found to play a significant role and, maybe less obvious, fathers' satisfaction with their parental role (Gibbson, 1992).

However, more pertinent for this study is the research of Kruk (1991) who found that disengaged fathers, that is fathers who had not had physical contact with their children in the past, were nearly unanimous in their dissatisfaction with the divorce court proceedings. More recently Stone and McKenry (1998) found that fathers who reported higher levels of satisfaction with the legal system were more likely to report higher levels of involvement with their children post divorce. No published Australian research that examines the relationship between fathers' satisfaction with the family law process could be found. The studies mentioned above are flawed in that they do not define satisfaction and, in the case of Stone and McKenry (1998), use measures that are of questionable reliability and validity. It is particularly the vagueness of the construct *satisfaction* that is a problem as it is not clear what fathers mean if they say they are dissatisfied, or what exactly they are dissatisfied with.

The aim of the current study is to try to explore the meaning of the construct satisfaction and dissatisfaction in the family law context and to endeavour to establish what exactly fathers mean when they say they are dissatisfied or satisfied with the legal system. For the purpose of this study the legal system is defined as the processes and proceedings utilised by the Family Court of W.A and the participants in the system including judges, magistrates, parties' lawyers, court mediators and court

counsellors. Legal proceedings refer specifically to contact proceedings. Child support obligations are recognised to be an important part of this process, however due to the large and complex nature of this issue, it was decided that this issue required individual attention and is therefore beyond the scope of the current study.

This research is considered essential at this stage, as it appears meaningless to introduce legislation to address the dissatisfaction of fathers with the legal system if it is not clear what fathers mean when they say they are dissatisfied and what they are dissatisfied with.

The *Out of the Maze* report (Commonwealth, 2001) that was published after this study commenced did highlight a number of a number of factors that make fathers dissatisfied with the family law system. However, the decision was made to proceed with this study. First, because the information in the relevant report was not given in response to the specific question *what leads to satisfaction or dissatisfaction with the system*. Second, because the *Out of the Maze* report (Commonwealth, 2001) was a national study and did not focus on Western Australia in particular. This was seen as an opportunity to determine whether the findings of the *Out of the Maze* report also applied in Western Australia. Third, it was anticipated that this study would produce data that would go beyond that reported in the *Out of the Maze* report (Commonwealth, 2001).

To achieve this aim a research project involving three stages were undertaken. First, stage one comprised a comprehensive literature review, which was undertaken to examine two areas of research. To start with, the dynamic process that takes place after the separation of partners who have been involved in an intimate relationship were examined, because it appears essential to understand fathers' experience of the family law system in this context. Particular attention was therefore given to the fact

that the decision to separate can be mutual or unilateral (Emery, 1994) and that spouses in the unilateral group typically see themselves as either the leaver or the left (Emery, 1994). Finally, the effect this may have on their interaction with the family law system and between themselves was also explored. Following this the existing literature dealing with satisfaction with the family law system was examined and an attempt was made to link this research with social psychological research that has aimed to examine participants' satisfaction with the legal system.

The second stage of the study involved a qualitative study. Twenty-four Western Australian fathers involved in a family law dispute were interviewed. The data obtained were first analysed by two colleagues not involved in the study and the researcher in consultation with the supervisor then undertook a further analysis of the data. During both the initial and further analyses techniques taken from grounded theory methodology (Strauss & Corbin, 1998) was used to determine the themes that were imbedded in the data.

At the end of the second stage (First data collection) some issues remained unresolved and this led to the third stage of this study, which included a smaller qualitative study (Second data collection). In order to triangulate the conclusions drawn, the researcher then used a theoretical sampling method to identify and reinterview eight of the original participants. The data collected during these interviews were analysed as discussed above and used during the formulation of the final conclusions.

STAGE ONE

LITERATURE REVIEW

The termination of a marriage is not an event, but a transitional process (Duck, 1991) during which parts of the relationship must be dismantled (Duck, 1998) and renegotiated (Van Wyk & La Cock, 1988). It involves disassembling the emotional relationship (love) between the spouses, taking apart their daily lives that have become meshed and changing their roles from husband and wife to divorcees. This restructuring of the relationship, which in itself never ends until the death of the spouses, has a great psychological impact (Kelley et al., 1983).

Psychological impact of separation

Irrespective of how bad a relationship may be towards the end, the spouses to a marriage share a history of shared love and positive experiences between them (Ketley, 1983; Levinger, 1983). They also adjust their lives to dovetail with each other, become dependant on each other and develop a role identity as husband and wife (Duck, 1998; Emery, 1994).

Separation therefore involves undertaking important psychological tasks. One of the major tasks, according to Emery (1994) involves dealing with the multiple losses that are associated with separation. These include losses of love (Duck, 1998) companionship (Duck, 1998; Van Wyk & La Cock, 1988); role identity as husband and wife (Duck, 1998; Emery, 1994); time with children (Emery, 1994); sense of efficacy by admitting failure (Van Wyk & La Cock, 1988); control, trust, and security (Emery, 1994; Weiss, 1976), to mention a few. The grief process that follows a significant loss has often been described. A well-known theory is that of Kübler-Ross (1969) and is based on her work with terminally ill patients. She distinguished five

stages, namely denial, anger, bargaining, depression and acceptance. These "stages do not replace each other but can exist next to each other and overlap at times" (p. 236). Weiss (1976) pointed out that Bowlby's description of the response to the loss of an attachment figure describes what spouses experience after separation. Bowlby (1979), described four stages that are very similar to that of Kübler-Ross, namely, numbing, yearning and protest that involve anger, disorganisation, and despair. While these two theories provide a general theory of reaction to loss, Emery (1994) believes that they do not adequately explain the bereavement response that follows the disintegration of a personal relationship. He, correctly points out that Kübler-Ross and Bowlby are primarily concerned with irrevocable losses and therefore did not include stages comparable to love. However, the possibility of a reunion, while often remote and unrealistic, does exist in the case of the breakdown of a marital relationship. Emery therefore formulated an alternative theory to explain the grief process after a separation.

As Emery's (1994) cyclical theory of grief is essential for the discussion that follows, it will be examined in some detail. Emery identified three major emotions that comprise the concept of grief. These emotions include love, anger and sadness. Emery acknowledges that love includes all its elusive meanings, however it places emphasis on the intense longing that follows separation from a loved one. Within the context of divorce he also views love to include vague hopes for reconciliation, guilt ridden concern and related emotions that cause one person to want to move closer to another. Emery describes anger, which includes feelings of frustration and resentment, as well as the far more intense fury and rage that is commonly experienced in divorce. He points out that anger is commonly felt toward the former spouse or the spouse's life circumstances, but that it is not always accompanied by

conflict. When discussing sadness Emery includes a collection of feelings including loneliness, depression and despair. In contrast to anger, this sadness is directed inward to the self, rather than outward to the former spouse or others. This sadness at its worst and most intense is described to be physically painful and people often refer to grief as feelings of hurt and pain rather than sadness and depression. Emery points out that although these three emotions have similarities to the stage theories described by Bowlby (1979) and Kubler-Ross (1969), an important difference is that the current model swings back to loving/hopeful feelings that are absent in the other two theories, although Bowlby theory clearly states that love or attachment is a prerequisite for grief.

It is important for the purposes of this thesis to understand that while virtually all separating spouses will experience this cycle of grief, they will not all experience it at the same time or same intensity, and that other psychological and external factors will influence how an individual experiences this cycle. The timing of this cycle is very important if one tries to determine what factors influence whether separating spouses are satisfied or dissatisfied with the legal system.

To understand why the timing of the cycle differs for different spouses, it is necessary to appreciate that the deterioration of a relationship is mostly a process that takes place over a period of time (Levinger, 1983; Peterson, 1983). In a deteriorating relationship where there is power symmetry, the parties are likely to engage each other in conflict (Peterson, 1983) and both parties start to see separation as an option. However, where there is power asymmetry (the male is usually perceived as more powerful) the spouse perceived as less powerful may be unhappy with the relationship, but avoid conflict though he or she sees separation as an option (Peterson, 1983).

While each separation is unique, all of them can therefore be placed in one of two general categories (Kressel, Jaffe, Tuchman, Watson, & Deutsch, 1980; Weiss, 1976). In the first case, the decision to separate is mutual with neither party feeling that they have been *left* or abandoned. In the second case the decision to separate will be unilateral, leaving parties feeling that they have been *left* or are the *leaver* (Emery, 1994; Kressel et al., 1980). It is possible that both parties may feel *left* or the *leaver* because this depends on their subjective perspective. Other authors use different terminology, Brown (1985) for example talks of the *dumpee* and *dumper*, Van Wyk and La Cock (1988) of *winner*s and *loser*s, Wallerstein and Kelly (1980) and Weiss (1976) of *rejectors* and *rejectees* and Goode (1956) and Pettit and Bloom (1984) of *initiators* and *non-initiators*, but irrespective of the language used, it is clear that the psychological impact is likely to be completely different depending on how the spouse sees his or her status. For example, Goode (1956) concluded that the least trauma occurred when the decision to divorce was a mutual one and that non-initiators were likely to be the most traumatised. Each of these categories will be examined closer next.

Mutual agreement

In those cases where the deterioration is visible to both parties they are likely to experience the cycles of love, anger and grief described by Emery (1994) in anticipation of the separation they realise they are heading to. As they are aware of the deterioration and have advanced through the grief process for more or less an equal period of time they are likely to come to a mutual agreement to discontinue the relationship. Very little has been written about this group in the literature, presumably because the separation process is generally uncomplicated.

Unilateral act

Leavers

Leavers are likely to have mixed emotions about the separation. The predominant emotion will be positive, as leavers are likely to feel that they are achieving their freedom and their decision to leave the relationship will make them feel empowered as they are able to sustain a sense of personal control (Pettit & Bloom, 1984). On the negative side there will be feeling of guilt (Emery, 1994), apprehension about the future (Weiss, 1976), failure and loss (Duck, 1998), and self blame for initiating the separation (Weiss, 1976). However, they are more likely to blame their spouse for the situation, and this blame is likely to be designed to give the leavers a sense of righteousness that the decision to separate was correct (Emery, 1994).

Nevertheless, not only will these negative feelings be overshadowed by the positive feelings, but as leavers will have contemplated, planned and prepared for the break for some time, they will be emotionally much better prepared to deal with the separation (Brown, 1985; Emery, 1994; Pledge 1992). In particular their grieving process over the loss of the marital relationship will be well advanced when the separation takes place (Brown, 1985; Emery, 1994; Margulies & Luchow, 1993; Rice & Rice, 1986; Schwartz & Kaslow, 1997).

As was indicated above, unilateral separations are more likely to take place when there is power asymmetry in the relationship, with the female usually believing that she has the least power (Peterson, 1983). Consequently women are more likely to initiate the decision to separate and see themselves as leavers (Braver, Whitley, & Ng, 1993; Buehler, 1987; Menaglio, 2003; Moloney, Fisher, Love, & Ferguson, 1996; Pettit & Bloom, 1984; Zeiss, Zeiss, & Johnson, 1980).

Lefts

For lefts the separation is usually a negative experience as they are usually surprised by the decision and neither emotionally or cognitively prepared for the ending of the relationship (Brown, 1985; Emery, 1994; Margulies & Luchow, 1993). They are likely to feel humiliated, ashamed at being a party to a separation, hurt, helpless, rejected, abandoned, and that they have lost power and control (Johnston & Campbell, 1988; Pledge, 1992; Rice & Rice, 1986). Anger is also very prominent as lefts predictably blame the leavers for the separation (Brown, 1985) and, as Rubin, Pruitt, and Kim (1994) have pointed out in their book *Social conflict: Escalation, stalemate and settlement*, blame usually manifests as anger, threats, guilt trips, attempts to impose a solution, or attempts to dominate.

They will also experience the cyclic pattern of love, anger and sadness, but unlike the leaver who has had time to contemplate the decision to separate and grieve the loss of the marital relationship, the left will only commence the grieving process at the time of separation (Brown, 1985; Emery, 1994; Kressel et al., 1980). Consequently, lefts are well behind their spouses in managing the grieving process. Furthermore, lefts may not even accept that there has to be a breakdown of the marital relationship and as Emery points out could therefore be hoping that the relationship can be saved.

As was pointed out above, men tend to be lefts and Emery (1994) found that "men were much less accepting of the end of their marriage than women ..." (p. 8). As men are most often lefts, it is not surprising that Australian men involved in divorce proceedings tend to see themselves as powerless victims (Jordan, 1989).

Spouses' motives for engaging with the legal process

Spouses engage in the legal system with a specific motive or expectation and it may not necessarily be overt (Emery, 1994). For example, a husband may agree to mediation with the motive of preventing the divorce from taking place while the aim of mediation in the family law context is to reach an agreement regarding the dissolution of the marriage (s25A, Family Law Act, 1975). Whether the decision to separate was perceived to be mutual or unilateral will obviously also influence participants' expectation of the legal process.

There is a lack of literature regarding the expectations separated parties have of the legal system and the discussion in the following sections will therefore by necessity require a degree of extrapolation from the literature on the psychological effect of divorce and on the expectations of people who engage in mediation. (See figure 1 for a diagram that explains the various expectations and motives of spouses who engage in the legal process.)

First, however, it is necessary to pause and examine some pertinent aspects of the Family Law Act ("Act") 1975. Where a marriage breaks down, separating parties do not need to apply for dissolution of the marriage, it is only necessary if either or both parties want to marry again. However, an application for dissolution has legal and symbolic significance such as a wish to put the past behind and mark the ending of a marriage (Charlesworth, Turner, & Foreman, 2000). Section 48 of the Act provides that as a rule spouses can apply for a decree of dissolution if they have lived separately for 12 months and there is no reasonable likelihood of reconciliation. It is irrelevant whether the decision to separate is mutual or unilateral and whether one party is at fault or not (Charlesworth et al., 2000). It is therefore virtually impossible to stop the Court from dissolving a marriage, but parties may dispute the application

in an attempt to engineer reconciliation or in an attempt to gain advantages in respect of children (residency or access) or property (Emery, 1994). The Court is prepared to follow agreements reached by parties, though if there are children involved, the Court must be satisfied that any agreement reached is to the best interest of the children (s68F, Family Law Act, 1975) and that proper arrangements have been made for the welfare of the children of the marriage under the age of 18 (s55A, Family Law Act, 1975). Furthermore, the Court considers the 1995 Amendment Act which emphasises that children have a right to know and be cared for by both parents, that children have the right to have contact with both parents on a regular basis, that parents *share* duties and responsibilities concerning the care, welfare and development of the children and that parents should agree about the future parenting of their children (s60B(2), Family Law Act, 1975).

Mutual agreement

Spouses who have made a mutual decision to separate are likely to feel equally powerful and to be people who do not avoid conflict (Peterson, 1983). They are therefore likely to believe that they will be able resolve other disputes between them and only engage with the legal system because it is required, but they usually expect the system to rubber stamp their agreements. However, there may be cases where they will not have been able to reach an agreement, and in those cases they engage with the system with the expectation that it should help them achieve a fair result.

The motive of spouses who made a mutual decision to separate will usually be to dissolve the marital relationship and settle the disputes between them in a mutually acceptable manner.

Research by Brown (1985), Emery (1994) and Pledge (1992) all highlight the rarity of a mutual agreement by partners to separate, therefore there is very little research which examines this group and their motives behind this decision.

Unilateral act

When the decision to separate is unilateral, spouses will have different emotions and cognitions and their expectations of the legal system are likely to be different, very different from those of parties who made a mutual decision to divorce (Brown, 1985; Emery, 1994; Kressel et al., 1980). It is worth noting that Kressel et al. (1980) found that where the decision was unilateral, both spouses often found it difficult to fully comprehend the relevant legal rules and procedures.

Leavers

Leavers are likely to be well prepared for the legal process and are able to maintain a sense of personal control regarding the separation (Pettit & Bloom, 1984). As Emery (1994) illustrates they will emotionally have reached a point where the intensity of the grief cycle is low and they are ready to move on. As they have contemplated the separation they will usually have resources to deal with the separation process and also the legal aspects involved. At worst, they would have made provisions for legal assistance, but more often they will already have engaged a lawyer who would have advised them, and may even have mapped out a strategy of how they should approach the separation and the subsequent legal process. Though they may, like other people, be apprehensive of the legal process (Weiss, 1976) leavers expect the legal system to help them end the relationship amicably and without unnecessary emotional and financial cost (Kressel et al., 1980). They may

also expect the legal process to protect them and the children, especially if they were in an abusive relationship (Emery, 1994).

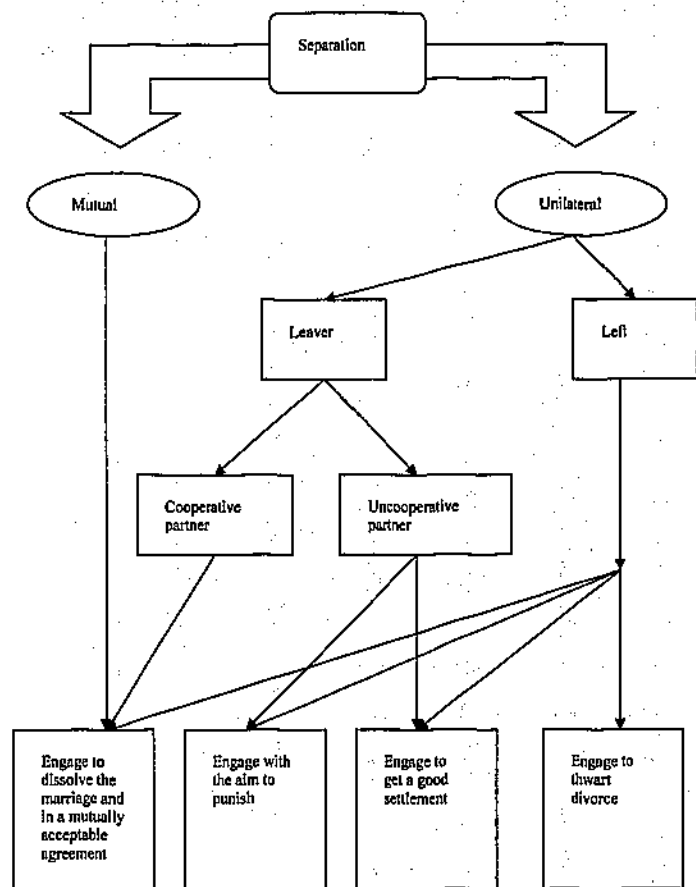


Figure 1. Expectations and motives of spouses when they engage with the legal system

Leavers, will often be friendly, conciliatory, supporting of leavers and may try to accommodate their demands (Emery, 1994; Kressel et al., 1980). This is partly because they feel guilty and therefore endeavour to soften the blow of their decision to separate, and partly because they want to avoid conflict with their spouses and want to terminate the relationship as soon as possible and with as little contact as possible with the other spouse (Emery, 1994).

If the other spouse cooperates because he or she also wishes to end the relationship and find a mutually acceptable agreement, the parties' expectation of the legal system will probably be similar to that of parties where the decision to separate was a mutual decision. They will therefore hope that they will be able to resolve their differences with the other party with a minimum involvement of the system, but that the system will be fair when called upon to assist them.

However, many leavers, for reasons that will be discussed below, may refuse to cooperate and take inflexible positions. Faced with this, leavers may themselves retaliate and adopt inflexible positions in an attempt to improve their own bargaining position. The end result could be a retaliatory spiral in which conflict escalates (Rubin, et al., 1994, and also see Kressel et al., 1980). The expectation of leavers under these circumstances will be that the legal process should provide them with the result they wish to achieve.

The motive of leavers with cooperative spouses who engage with the legal system is therefore generally to find a mutually acceptable agreement. In contrast, the motive of leavers with uncooperative spouses who engage with the legal system is likely to be an attempt to reach the outcome they want, viz. a divorce and favour settlements in respect of the residency and access to the children and property matters. A motive here may be to punish the uncooperative spouse.

Lefts

Lefts, in contrast to leavers, will according to Emery (1994) be poorly prepared to engage the legal demands brought about by a separation. Psychologically they will be embarking on the grieving process described above, and the stress of being involved in the legal process may exasperate the distress of the lefts (Pledge, 1992). Lefts may also misconceive the conciliatory attitude of leavers as an indication that there is a possibility of engineering reconciliation (Emery, 1994).

Ultimately lefts do not want the marriage to end and feel that it will be unfair and unjust if it ends. They are therefore likely to expect the system to prevent the divorce from happening. However, as pointed out, the natural progression once a spouse has decided to end a marital relationship is one that leads to dissolution of the marriage. When lefts realise this they may still try to use the system indirectly to thwart the divorce, or at least to regain power and control of the situation they find themselves in (Emery, 1994) and to achieve an outcome that will punish the other spouse. Punishment will normally take the form of an unfavourable order in respect of the residency and access to the children and a poor property settlement (Allan, personal communication, August 2003).

Turning to the motives of lefts when they engage with the legal system. First, it is possible, but rare, that some lefts may have put their emotions aside and may accept that the relationship has come to an end and that their motive for engaging with the legal system is to reach a mutually acceptable agreement. The second motive is probably more prevalent, namely that lefts engage with the legal system in order to reach the outcome they want, viz. to thwart the divorce or an outcome that will punish the other spouse.

Fathers' experience of the divorce process

As can be expected a review of the literature dealing with fathers' experience of the divorce process (including their experiences with the Family Court of Western Australia), reveals that they experienced the emotional distress and adjustment after their divorce that were described in the previous section (Dudley, 1996). Several indirect manifestations of emotional upheaval were also identified and included substance use, rationalisations and violence (Umberson & Williams, 1993; Dudley, 1991; Arendell, 1992). There is limited Australian research that examines the effects of separation on men and their experience with the divorce process (Umberson & Williams, 1993; Wilson, 1988). According to Campbell and Pike (2002) for fathers, the psychological and emotional effects of separation are often experienced concurrently with many practical matters and can raise issues such as dealing with loss, redefining identity outside of the marriage or relationship and adjusting to newly structured roles. Furthermore, fathers also experienced a range of practical adjustments and demands that frequently placed a major strain upon his financial resources including child support payments (Campbell & Pike, 2002). These fathers also needed to locate new accommodation and adjust to new physical surroundings and negotiate government and legal systems they were unfamiliar with (Campbell & Pike, 2002).

A number of studies conducted in the United States were also identified which examined fathers' experience with the divorce process. Loss was a central theme in the reports of many fathers (Dudley, 1996; Kruk, 1991; Umberson & Williams, 1993). Prominent losses reported were that of their former spouse, social support networks and neighbourhood (Kruk, 1991). Loss of control was also identified and related to decision-making and the family (Kruk, 1991). However,

many studies examining the experience of non-custodial fathers revealed that the most serious loss for fathers were that of their children in their daily lives (Kruk, 1991) and the loss of the parental role (Umberson & Williams, 1993).

Fathers reported great dissatisfaction with the family law system when discussing their new role as the non-residential father (Arditti & Allen, 1993; Dudley, 1996; Umberson & Williams, 1993). This was partly due to the result of decisions made by the court relating to their visitation arrangements, custody status, and child support order (Dudley, 1996). A number of scholars (Arendell, 1992; Arditti & Allen, 1993, Dudley, 1991; Umberson & Williams, 1993) identified that fathers wanted a larger amount of time with their children than was allowed. A painful adjustment was experienced by fathers who post divorce could only see their children intermittently and according to a prescribed schedule (Umberson & Williams, 1993). Many fathers were dissatisfied with their inability to achieve a joint or sole custody arrangement in court. They expressed a desire for custody, however many experienced feelings of hopelessness regarding this, due to their awareness of the odds being stacked against them (Arditti & Allen, 1993).

Child support was also of concern to fathers and fathers were particularly unhappy that the court was more concerned with their financial obligations rather than their child-rearing responsibilities (Dudley, 1991). Fathers wanted more than just financial input in their children's lives and some fathers refused to pay child support if they were not provided with regular access to their children (Arditti & Allen, 1993). Furthermore, fathers reported concern regarding the way in which the child support money they contributed was spent and implied that their former spouses spent this money on themselves rather than the children (Dudley, 1996).

Problems with divorce proceedings were identified as a common theme (Dudley, 1996). These fathers viewed the divorce courts to be unfair to fathers in general and to them in particular (Arditti & Allen, 1993). The conflict that occurred during divorce court proceedings was often conflict with their former spouse. The conflict with former spouses was viewed as often being created or exacerbated by lawyers. Lawyers in general were viewed in a negative light (Arditti & Allen, 1993). Some of the reasons included the belief that they were in the profession for financial gain and career advancement, that they were insensitive to their emotional needs instead emphasising financial and property needs and discouragement to pursue custodial rights (sole or joint) because they were not hopeful of the outcome (Dudley, 1991).

Given the fact parties (in this case fathers') experience of the legal system is unsatisfactory it is not surprising that social psychologists such as Retting and Dahl (1993) decided to explore parties perception of the divorce process using a social psychology paradigm based on the work of Thibaut and Walker (1978) and the later work of Lind and Tyler (1988). While this research is aimed at people's perception of the justice of legal processes, it is important for this study because people's perception of justice of a process has an influence on whether they are satisfied with the process itself (Lind & Tyler, 1988).

Social psychological perspectives on satisfaction with the legal system

The premises in the social psychological study of justice is that people react psychologically to the adherence or violation of norms, and that these psychological reactions strongly influence the cognitions and behaviour of people involved (Lind & Tyler, 1988). Initially in social psychology researchers assumed that people evaluate

their satisfaction with social experiences, relationships and institutions on the basis of the outcomes they receive "and that their attitudes and behaviour can be explained by these outcome based judgments" (Lind & Tyler, 1988, p.1). This approach, in the area of dispute resolution, focuses on the fairness of the outcome or distributive aspects (the verdict or judgment rendered) and is also referred to as distributive fairness or justice.

However, in the early 1970s researchers realised that people's evaluation of experiences are also influenced by the form of social interaction, that is the process that leads to the outcome (Lind & Tyler, 1988). The researchers whose work in this area was most influential were Thibaut and Walker (1975) and their work led to them coining the term procedural justice.

Procedural justice suggests that people's reaction to dispute resolution is not only a function of their judgement of the outcome, but also their judgement of the process (Tyler, 1988). Procedural justice therefore, in contrast to distributive justice, focuses on the nature of the process that leads to the relevant outcome, in particular whether the procedures and processes were just and fair (Tyler, 1988). Consequently, although disputants for whom the resolution of a dispute yielded an unfavourable outcome were less satisfied, such dissatisfaction was less pronounced when the outcome was perceived as having resulted from a fair procedure (Tyler, 1988). In the case of outcome satisfaction, therefore, both the outcomes obtained and the procedures used to achieve them exercise an independent influence on outcome satisfaction (Tyler, 1988).

It is also important for this study to note the distinction Thibaut and Walker (1975) make between objective and subjective procedural justice. Many procedural rules are objectively fair, for example the rule that only evidence relevant to the

dispute may be offered in court. However, some litigants may subjectively feel that is unfair if a judge prevents them from telling their story because it is not relevant.

In addition to suggesting that people are concerned with about procedural justice, Thibaut and Walker (1975) developed a psychological model to explain procedural preferences. That model suggests that the distribution of control between the participants and the third party is the key procedural characteristic shaping people's views about both fairness and desirability. Thibaut and Walker distinguished between two types of control: process control (also sometimes referred to as voice) and decision control. Process control refers to participant's control over presentation of evidence; decision control refers to participant's control over the actual decisions made. Research has consistently demonstrated that people are more satisfied with procedures that give them substantial freedom to communicate their views and arguments i.e. voice (Lind & Tyler, 1988).

Underlying the control model are several important assumptions (Thibaut & Walker, 1975). The most obvious is that people focus on their direct and indirect control over the decisions made by a third party. It is assumed that people are not concerned with their long-term relationship to the third party or to the institutions they represent (Thibaut & Walker, 1975). In other words, people are primarily concerned about their relationship to the person or people with whom they have a dispute. Their concerns include an interest in the specific dispute they are engaged in and concerned about maintaining a long-term productive, exchange relationship with other parties to the dispute (Thibaut & Walker, 1975). As people's concern in dealing with a third party is with the dispute at issue, it is control over aspects of the procedure related to the resolution of the dispute that are central to the control model (Thibaut & Walker, 1975).

Lind and Tyler (1988) proposed a different conception of the psychology of procedural justice, one that they labelled the group-value model. The group-value model suggests that there are important aspects of the psychology of procedural justice that are not represented in Thibaut and Walker's (1975) control model. The group-value model assumes that people are concerned about their long-term social relationship with the authorities or institutions acting as third parties and do not view their relationship with third parties as a one shot deal. Instead, people care about their relationship with the third party (Lind & Tyler, 1988). This leads them to be concerned with three non-control issues: the neutrality of their decision-making procedure, trust in the third party, and evidence of social standing. It is predicted that these three group-value issues will have an effect on reactions to experiences that is independent of the influence of outcome favourability or the distribution of control (Lind & Tyler, 1988).

The basic assumption of the group-value model is that people value membership in social groups: that is group identification is psychologically rewarding (Lind & Tyler, 1988). People want to belong to social groups and to establish and maintain the social bonds that exist within groups. Research shows that people establish such connections if given even the most tenuous basis for group identification (Lind & Tyler, 1988).

Tyler and various associates have used the distributive and procedural model of justice to examine satisfaction in a number of contexts.

An early study by Tyler and Folger (1980) tested Thibaut and Walker's (1975) hypothesis that the procedures utilised to resolve dispute have an impact upon satisfaction that is independent of the outcomes received. They examined this hypothesis with police-citizen encounters. The results of this study showed that when

citizens call the police for assistance or are stopped by the police, their perception of the fairness of their treatment by the police has an impact upon their satisfaction with the police that is independent of whether the police solve the problem about which the citizen calls or cite the citizen they have stopped for a violation of the law. These findings suggest that issues of procedural justice have a much broader range of applicability than to the courtroom settings within which they have been previously studied.

A well cited study by Tyler (1984) examined the concept of satisfaction in traffic and misdemeanour court by utilising a model of distributive and procedural justice. This research suggested satisfaction incorporates distributive fairness, which refers to the perceived fairness of the outcome of a legal proceeding and procedural fairness, which refers to the perceived fairness of the operation of a legal proceeding. Distributive fairness was explored by asking respondents about the fairness of the outcome they received and procedural fairness was examined by asking how just and *impartial* the procedures utilised were. In addition to directly assessing judgements of distributive and procedural fairness, respondents were asked a series of questions about aspects of their trial that might be related to judgements of distributive and procedural fairness.

The results of this study found that procedural justice was an essential element in explaining support for legal authorities and played a major role in explaining the attitudes of traffic violators and other petty offenders toward the legal system.

Further research by Tyler (1988) examined procedural justice in the context of citizen experiences with the police and the courts. It was based on interviews of 652 citizens with recent personal experiences involving those authorities. Two issues were explored firstly, whether the justice of the procedures involved influenced citizen

satisfaction with outcomes and evaluations of legal authorities and secondly, how citizens defined *fair process* in such settings.

The results of this research were consistent with earlier studies, which found that procedural justice has a major influence on both satisfaction and evaluation and which further suggests that such procedural justice judgements are complex and multifaceted.

One example is research by Tyler and Caine (1981), which gives further support for the influence of procedural justice on satisfaction. Four studies were conducted which incorporated two surveys and two experiments to test the hypothesis that the procedures used by leaders to allocate outcomes have an impact on leadership evaluations that is independent of the outcome level or outcome fairness. Two studies tested this hypothesis within the context of student evaluations of teachers and two tested it within the context of citizen evaluations of political leaders. The procedural justice hypothesis was strongly supported by all four studies. In each study, strong procedural influences on evaluation were found, influences that were independent of outcome level or outcome fairness. In addition, in both surveys of naturally occurring evaluations, variations in procedural fairness had a much greater impact on leadership endorsement than did variations in outcome level, outcome satisfaction or outcome fairness. This research concluded that in experimental settings subjects can be sensitive to both outcomes and procedures. In natural settings, however, individuals focus on procedures, rather than outcomes in forming their evaluations of leaders. The latter conclusion would apply to the current research as these concepts will be explored in natural settings, namely the Family Court.

This research by Tyler and associates has provided a useful model for examining satisfaction in the area of criminal law and in recent years the social psychological

model has also been applied to explore people satisfaction in the area of family law. For example, a study by Rettig and Dahl (1993) examined the impact of procedural factors on perceived justice in divorce settlements. They used a decision-making framework from family resource management combined with procedural justice frameworks from social psychology to explore three issues. First, to identify the elements and rules of procedural fairness, second, to develop a theoretical organization and code to include procedural fairness principles as applied to the legal decision process in divorce and third, to describe the perceptions of divorcing parties about the violations of procedural fairness principles in their own divorce process. The procedural fairness principles examined in the study included accuracy, consistency, ethicality, bias suppression, correctability and representativeness.

Rettig and Dahl (1993) used a qualitative data analysis, which identified that divorce was an appropriate domain for examining perceptions of fairness with procedural factors. In particular, that divorced people were concerned with fair procedures and particularly with violations of principles of ethicality, consistency, accuracy and representativeness. Their results were consistent with previous research on procedural justice such as that of Lind and Tyler (1988).

Therapeutic Jurisprudence Perspectives on Satisfaction with the Legal System

Therapeutic jurisprudence can be defined as a broader perspective of law (Daicoff, 2000) which suggests that law needs to consider its social effects thus taking into account the physical and psychological well being of individuals involved (Wexler, 2001). This perspective also purports creative approaches to lawyering (Cooper, 1998) and acknowledgement of collaboration with practitioners from other

disciplines. Finally it emphasises the importance of maintaining a fair and just process in the context of this approach (Wexler, 2001).

This perspective is useful and relevant when examining the topic of father's satisfaction or dissatisfaction with the legal system as it acknowledges the psychological impacts on individuals, which have been highlighted by previous research. Furthermore the use of creative approaches to the legal process and involvement of practitioners from other disciplines such as psychology and social work may also improve father's satisfaction in relation to procedures and outcomes utilised during legal proceedings.

Conclusion

The literature outlined above indicates that upon separation fathers react in various ways and experience both positive and negative emotions, which are often influenced by the circumstance surrounding separation. The review also suggests that fathers' experience with the legal system may often be unsatisfactory due to a number of factors. Some of these could include the large and varied losses fathers experience in relation to the family structure, supports and loss of their children in their daily lives as well as issues of child support and dissatisfaction with divorce proceedings (Arditti & Allen, 1993; Dudley, 1996; Umberson & Williams, 1993). Other research that was examined is that by social psychologists who explored parties perception of the divorce process using a social psychology paradigm (Lind & Tyler, 1988; Thibaut & Walker 1975). Results of this research indicate that both the court process and outcomes achieved influence satisfaction (Lind & Tyler, 1988; Rettig & Dahl, 1993; Thibaut & Walker 1975).

STAGE TWO

Method

Participants

Twenty-four divorced fathers were recruited for this study. Participants were recruited from a variety of settings including advertisements placed in the community newspapers and noticeboards at local shopping centres in Perth, Western Australia (see Appendix B for advertisements). This was done to ensure that the sample was representative of Western Australian fathers.

Design

This study incorporated a qualitative design and comprised an interview, which was conducted as per the interview schedule (see Appendix A). Demographic information was also recorded, in respect of several variables, which previous research has shown to influence post-divorce contact. Fathers were categorised into a leaver or left category according to their perception of whether they had initiated the separation or whether their partner had made the decision to terminate the relationship. This was done to ensure that a full range of fathers were included in the sample.

Materials

An information document, refer to Appendix C, provided participants with an outline of the study and the contact information of the researchers. A consent form, refer to Appendix D, advised participants that the study was voluntary and that they were free to withdraw at any time.

An interview schedule (see Appendix A) was used to explore fathers' satisfaction with the outcome and procedures used during their legal proceedings. The first three questions examined the concept of satisfaction in a direct manner. These questions asked fathers to define the word satisfaction, provide examples of satisfaction within the legal system and to determine what leads a person to feel satisfied or dissatisfied. The following twelve questions asked fathers about their experience with the legal system and aimed to examine the concept of satisfaction in an indirect manner. These questions examined reasons why fathers perceived their outcome, the procedures used in the Family Court and characteristics of the legal system to be fair/unfair. All questions were developed from Tyler (1984). In order to ensure the validity of interview questions (Guilfoyle & Hill, 2002) some minor revisions were made to the questionnaire after interviewing ten participants. This included changing all questions about participants' experience with the judge to participants' experience with the legal system in general. This was due to the fact that many cases did not actually have any contact with a judge as their contact and residency issues were decided without going to trial. A further revision was made after interviewing fifteen participants. This included changing the order of the interview schedule to begin to generally explore fathers' experience with the legal system and end specifically with exploring satisfaction. Several prompts were also included which aimed to build on some recurring themes identified thus far. These included questions on how mediation was perceived and what the role of the father encompasses.

Procedure

The current study was part of a more comprehensive research project and all participants also completed the Self-Perceptions of the Father Role Questionnaire and another Structured Interview alternating after and before the interview for this study. For the results of the other part of the study see Gobetz (2004).

On responding to the invitation to participate, information regarding the study was provided over the phone (see appendix F) and a suitable time was arranged with participants to conduct testing. The research was conducted in a public place such as a library or community centre and utilised a private area such as an interview or activity room with a closed door to ensure confidentiality. The public venue was selected to ensure convenience to the participant in terms of travelling as well as to ensure the safety of both the participant and researcher due to the researcher being female and all participants being males who were unknown to the researcher.

The interview commenced with the researcher explaining the project and the participant reading and completing the information document and consent form. Following this, a number of demographic questions (see Appendix E) were asked by the interviewer and recorded in written form. Next, the participant was required to take part in a qualitative interview, which examined fathers' satisfaction or dissatisfaction with the procedures and outcomes of their legal proceedings.

Participants were thanked for their efforts and given a brochure containing a list of referral sources to contact should the research have raised any feelings of distress, which required psychological intervention or support.

Data Analysis

The research design incorporated techniques from the grounded theory approach. The aim of this method was to progress from a set of unstructured materials, to a collection of theoretical codes, concepts and interpretations (Hayes, 1997).

Data preparation included data collection and creating a permanent record. The aim with initial data gathering was to collect a general set of materials, although subsequent data collection was more focused (Hayes, 1997). The data was then collated into a permanent transcript, which was organised and easily accessible during analysis. Each transcript was numbered for identification purposes (Hayes, 1997), but no identification data of the relevant participants appears on the transcript.

As a second step, the interview data were coded to identify themes about fathers' satisfaction and dissatisfaction with the family law system. The researcher was aided in this process by two postgraduate psychology students who independently examined the transcripts and identified themes of satisfaction and dissatisfaction. While knowledgeable about the reactions of fathers' post divorce, these co-workers are not experts in the area of family law. This analysis was called the initial analysis.

After this the researcher and her colleague working on the twin project refined the coded concepts and reduced the number of themes by collapsing related themes. This stage of analysis was called the intermediate analysis.

The final stage of analysis was undertaken by the researcher in consultation with her supervisor and involved attempts to integrate the emerging categories by creating links between them (Hayes, 1997). These themes are referred to as central themes. To avoid unnecessary repetition only the intermediate and central themes will be reported in the results section.

Results

Demographics

Demographic information was collected from all participants to determine the representativeness of the population sampled. Analyses were conducted using descriptive information and frequencies. Twenty-four fathers participated in the study, their mean age was 42.79 ($SD = 8.71$) and ranged from 27 to 65. The number of years these fathers had been in a formal relationship (de facto or a marriage) varied greatly. The mean length of the relationship was 8.72 years ($SD = 4.66$), with a range from 3 years to 20 years. All participants had been in a formal relationship at the time that they had children. Five of the participants had children from more than one relationship. Seventeen relationships were marriages, two were defacto relationships and five had been in more than one relationship. The majority of the relationships had since ended. The participants who were currently in de facto relationships had been through the divorce process with a previous partner. At the time of the study six of the participants were married, seventeen participants were single and one was in a de facto relationship. The mean time since participant's relationships ended was 6.31 years ($SD = 6.48$). However, this was quite varied with a range from 8 months to 29 years.

The largest subgroup of participants when examining education had a tertiary education (7 participants). Five participants had completed year 10, five participants had completed year 12, three participants had completed TAFE and four participants had postgraduate qualifications. Refer to figure 2 for education level of fathers in the current study.

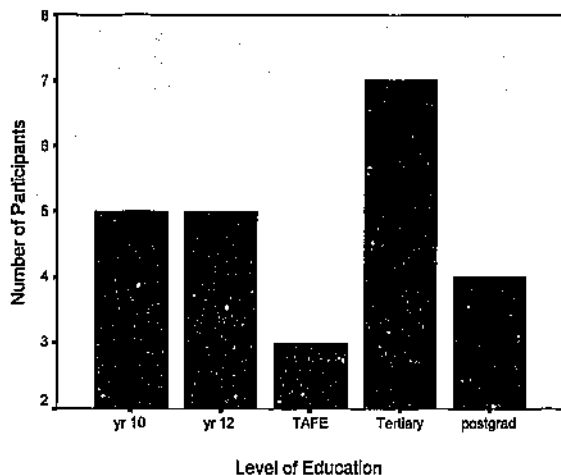


Figure 2. Education level of fathers

The mean number of children each father had was 2.13. Six participants had 1 child, 13 participants had two children, two participants had three children, two participants had four children and one participant had five children. Overall, the age of the children ranged from one to 35 years. The mean age of the children was 8 years ($SD = 6.72$). The mean age of the 1st child was 12.11, the mean age of the 2nd child was 9.94, the mean age of the 3rd child was 5.60, the mean age of the fourth child was 2.67 and the mean age of the 5th child was 2 years. The majority of fathers had children in the pre-primary and primary school age range (16 fathers), that is to say children under 12 years of age. Four fathers had teenaged children, one father had

adult children aged 20 years and over and three participants did not provide information on the age of their children.

When examining the actual level of contact the fathers had with their children the median was 5 days per month. Some fathers had no contact and other fathers were full time carers of their children. Refer to figure 3 for results of fathers' actual contact with their children.

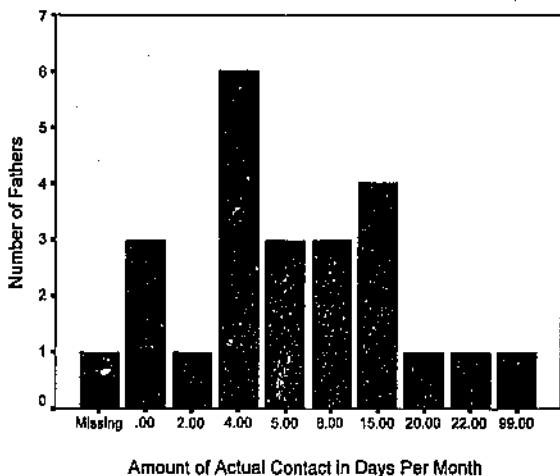


Figure 3. Results of Fathers' Actual Contact with their Children

For those fathers who had contact prescribed by the court, the results were the same as the actual contact variable, with the median amount of contact being 5 days per month. The prescribed contact also ranged from 0 days per month to 22 days per month. Refer to figure 4 for results of fathers' prescribed contact by the court.

Only three fathers reported having less contact than was prescribed by the court. In one case, this was due to the father choosing to move interstate. The other

two fathers reported that this was due to their ex-partner breaching the court order. In addition, two of the fathers reported that their ex-partners had relocated overseas, preventing the fathers from having any contact with their children.

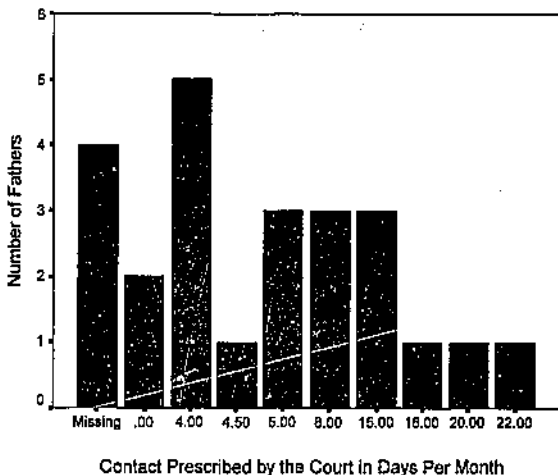


Figure 4. Results of Fathers' Prescribed Contact by the Court.

When examining fathers' ex-partners' current relationship status it was found that nine ex-partners were single, nine were in de facto relationships, one was married, four were unknown and one participant's data for this variable was missing.

The distance non-residential fathers lived from their children ranged from 1 kilometres to 20 000 kilometres. The median distance was 25 kilometres. Three of the participants were the primary carers of their children, 4 participants had a shared care arrangement and 17 participants were the non-residential carer/parent. Refer to figure 5 for results of fathers' living distance from their children.

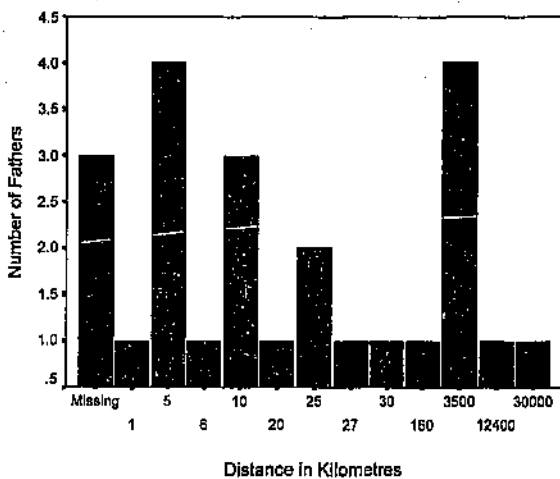


Figure 5. Results of Fathers' Living Distance from their Children

Analysis of Satisfaction in General

Past research has defined the concept of satisfaction in vague terms and has failed to identify its components in a comprehensive manner. The interview schedule used in this study contained two sections. The first section, which is discussed below, included three questions, which examined fathers' definitions of the concept of satisfaction. These questions aimed to develop a clear and comprehensive understanding of this concept. Below are direct quotes from fathers in response to the questions asked. P refers to participants.

The first question asked fathers to define the word satisfaction (with no reference to the legal system). The intermediate analysis of the responses to question one identified four themes. These included a positive feeling or emotion, expectation, justice and outcome.

Positive Feeling or Emotion

Participants emphasised satisfaction to be a positive concept or feeling such as a "*feeling of well being*" (P14) or "*sense of contentment, inner peace*" (P16). They described satisfaction as being happy, content and achieving something that was positive. For example, "*happy with the situation, content with the situation*" (P11) and "*happy with the circumstances*" (P5).

Expectation

Fathers also defined satisfaction in terms of whether their expectations were met. For example: "*receiving something that generally meets or exceeds their expectations*" (P14) and "*meets your expectations*" (P13). Fathers' descriptions of expectation were related to the process of completing a task or objective. That is

fathers stated that if a task or objective was completed and met, or exceeded what they expected to achieve, satisfaction was likely to result. One example included *"having done a job or completing a task to or above your own expectations"*(P14). It is important to note that the expectations outlined by participants do not appear to be based on objective criteria but rather likely to be what fathers subjectively hoped for. Lewin, Dembo, Festinger and Snedden, (1944) distinguish between hope and expectation. They described hope to be about possibility, whereas expectation is about the *realistic* possibility of achieving what is desired. This distinction could therefore suggest that what fathers are labelling as expectations, are actually hopes, which are less realistic and less likely to be achieved in relation to outcomes regarding their children.

Justice

Although this question about satisfaction was asked without any reference to the legal system, the concept of justice, fairness and equality was also discussed. For example, participant 7 linked satisfaction with statements such as *"fair and reasonable"* while other participants defined satisfaction by saying that it was *"feeling like justice has been served"* (P18). Some fathers believed that for satisfaction to result, a sense of justice and fairness was essential. For example *"I'm not satisfied unless something is right"* (P17) and *"trying to achieve what is right"* (P24).

Outcome

An outcome, which involved fathers getting what they believed to be their due or right, resulted in satisfaction. For example one participant stated *"Win/win, where both parties feel they have won"*(P21) and another father reported, *"when you get*

what you desire and you have enjoyed it" (P23). Yet other fathers described this outcome and satisfaction as "getting what I want" (P1, P2, P4). Some fathers linked this theme of outcome to the first theme identified, which described satisfaction as a positive feeling or emotion. This was related to the amount of contact fathers received with their children "feeling good about an outcome or achievement" (P11, P15) and "being happy with the outcome (P20).

Central Theme and Conclusion Regarding Satisfaction in General

Although the question was not asked with reference to the legal system, the theme, which appears to be central to these responses, is one of outcome. That is, fathers report satisfaction if they get the outcome they want, desire or hope for. When examining the other themes of positive emotion and expectation, they were all discussed in the context of a favourable outcome. Fairness and justice was also a recurring theme, however fathers defined these concepts as getting what they want.

The theme of central theme of outcome is consistent with Tyler's (1984) concept of distributive justice, which refers to the perceived fairness of the outcome of a legal proceeding (Tyler, 1984). In contrast, procedural justice focuses on the nature of the process that leads to the relevant outcome, in particular whether the procedures and processes were just and fair (Thibaut & Walker, 1975). Although fathers in the current study discussed fairness and justice, their definition of these concepts was embedded in a favourable outcome.

In conclusion, fathers in the current study identified the theme of outcome as central to the definition of the concept satisfaction. However, important to note is that although the theme of justice and fairness was also raised, this justice and fairness

was discussed in the context of outcome, which suggests the distributive factor of outcome to be a primary indicator when defining the concept of satisfaction.

Analysis of Satisfaction in the Legal system

The second and third questions of part A (see appendix A) utilised in the interview schedule asked participants to provide examples of satisfaction in the legal system. Intermediate analyses of question two identified three main themes. These included justice and fairness, system interaction and recognition of the father role. Intermediate analysis of question three, which examined what factors lead to satisfaction or dissatisfaction, was consistent with responses to question two and will be discussed in conjunction with responses to question two.

Examples of Satisfaction in Relation to the Legal System

When asked about examples of satisfaction in relation to the legal system fathers identified themes of justice and fairness, systems issues and recognition of the father role.

Justice/Fairness

The concept of justice was seen as an important contributing factor to satisfaction with the legal system. One example provided was "*a perception of justice within the framework of the law*" (P14) whilst another example included "*justice- a resolution that both parties can be happy with*"(P16). A final example was provided by participant 7 who stated that justice was about "*getting due process*".

The concept of fairness in the context of the legal system was also linked to satisfaction and had a strong link to outcomes, which considered the children's wants

and needs. For example *"forming a fair and equitable outcome whilst still preserving the best interests of the child"* (P15) and *"look at how close the kids are to each parent and consider what the children want"* (P10). Fairness was also linked to the concept of equality including *"believing there was a fair outcome, both parties given the same respect and same outcome"* (P20) and emphasised that *"it would have to be fair, that parties were treated equally"* (P13). It would appear as if fathers believe that a fair outcome is one where they have equal rights in respect of their children as the mother, and that a fair process is one that will give such outcome.

Systems interaction

Receiving a competent and efficient service also influenced satisfaction within the legal system. This included professional conduct by the staff and the provision of a service that was competent and efficient. One example included *"have things resolved with no delays or hold ups"* (P7) and another participant stated *"no real follow up in my case from the court system, overloaded, no counselling afterward, no phone calls to follow up and check if its working, court didn't want to take my phone calls"* (P1).

Recognition of the father role

Participants also indicated that there was a link between satisfaction and acknowledgement by the system that fathers had an important role to play in their children's lives. For example *"recognise both parents have equal access rights no matter what"* (P19) as well as both parties being able to maintain a significant role in their children's lives post divorce such as *"for them to see my role as a father even though we are separated and to ensure that it is upheld"* (P4). Once again the

perception that there should be equality between biological parents in respect of their children appears to be very strong.

Specific Factors that Lead to Satisfaction and Dissatisfaction in the Legal System

When asked specifically about factors which lead to satisfaction and dissatisfaction, fathers provided the following responses. Factors, which lead to satisfaction, included a positive outcome and fairness. In contrast, factors which lead to dissatisfaction, included erosion of the father role and bias in favour of mothers.

Satisfaction

Factors that lead to satisfaction included achieving a suitable outcome from the legal system in terms of the amount of contact or residency of their children such as *"getting what I want"* (P6). Furthermore, having expectations and objectives met regarding contact and residency was also highlighted as important. One example included *"their own perception of having achieved their objectives"* (P14) and *"when they believe their interests are met at least to some degree"* (P15). Fairness regarding the decision-making process in the family court was also seen to lead to satisfaction such as *"Sense of being empowered. Fairness and appropriateness"* (P16) and *"what is right, what would I do in the other person's shoes, what is fair"* (P17).

Dissatisfaction

Dissatisfaction occurred when the fathers' role was not recognised as being equal to that of the mother. Some pertinent examples included *"Father is a role not a title the only way to fulfil the role is to be there, the system restricts you"* (P4) and *"not being treated as an equal, walk in with a 80/20 situation"* (P20). Furthermore, the perception of a bias toward females in the family court also resulted in feelings of

dissatisfaction such as "bias toward women, 90% of cases women get custody, courts need to examine situation, why should the husband be penalised, why can't the husband have the kids and house and the wife go out and support them. System designed to create enormous animosity from men toward women" (P18).

Central Themes and Conclusion

The central themes identified for question two and three were justice and fairness and erosion of the father role. Justice and fairness were once again highlighted as most important to fathers when defining the concept of satisfaction. However, justice and fairness was strongly linked to the outcomes fathers received in relation to contact with their children post divorce. A perception of a lack of justice and fairness was also highlighted by fathers' discussion of the erosion of the father role to purely an instrumental or financial role. The strong theme that emerges here as well is that fathers believe that a fair and just system will be one that will give them what they want, namely equal rights and treatment in respect of their children.

Once again research by Tyler (1984), which examined satisfaction in the criminal law system by using the concepts of procedural and distributive justice, can be applied to the examination of satisfaction in the family law system. When examining satisfaction in the family law system and applying these concepts of procedural and distributive justice to the current sample, results were analogous to question one. That is, although the procedural factor of justice and fairness was a constant theme throughout the interviews, this justice and fairness was consistently discussed in the context of the distributive factor of fathers' outcomes in relation to contact with their children, which they described to be of paramount importance. Further support for the importance of fathers' outcomes was highlighted by the third

question which explored factors which lead to satisfaction and a major factor leading to dissatisfaction was found to be erosion of the father role.

Analysis of Indirect Evidence

The following section examines fathers' experiences with the legal system and the different areas, which contributed to their satisfaction, or dissatisfaction with this experience. Eight intermediate themes were identified.

Initiation of the Separation Process

As predicted by Emery's (1994) model, one of the primary themes which emerged, was the initial circumstances of the separation process, especially the reaction of the party who was not the initiator. In this study the majority of respondents (20 out of a sample of 24) saw themselves as lefts in the separation process.

For the small number of fathers who had a mutual agreement to separate, their focus was negotiating a favourable outcome in regard to their children in collaboration with their former partners. These fathers tended to resolve all or the majority of their issues outside of the courtroom and utilise this arena simply as a *rubber stamp*. For the majority of fathers who were left, the separation process brought conflict between fathers and their former wives in regard to a number of issues such as contact with their children and financial support. Many of these fathers faced the legal system with many unresolved issues from the separation process.

A subgroup of the fathers experienced their wives ending the relationship and relocating with the children without informing them. For example participant 15 discussed his circumstances and stated, "*my wife absconded to Germany. She returned to Australia for the court proceedings, however after this, she relocated to*

Germany. Contact with the child has been hampered and difficult" (P15). Participant 9 provided another similar example "wife left, children taken out of the country, passports forged, money stolen and went to Scotland. She left again, went to Ireland and I had no contact with the children" (P9). Finally participant 18 described his story, which followed a similar pattern "wife left me in Brisbane and came to Perth. I followed two months later and she barred me from the house" (P18).

Emotional Adjustment to the Divorce

A large number of fathers interviewed for this research provided responses, which illustrated a high degree of emotion during the separation process. This is also in accordance with Emery's (1994) model. Examples of this include feeling *"like I was in a daze, with so many people telling you what to do and not to do" (P5)* and another participant stated *"my state of mind at the time was anger and stress" (P18).*

Even when not saying that they were angry, the anger of respondents were discernable from the language some fathers used, especially when talking about their former wives. Participant 5 who described complained that *"females screw around, I was shafted"* while participant 10 stated, *"women are screwing their ex- partners into the ground trying to manipulate"*.

These fathers were mostly fathers in the left group. While not without emotions, the fathers in the mutual group provided responses, which were not laden with emotion and included more neutral language. One example is participant 16 who discussed his *"former partner" "compromise", and "closure and termination"*. Participant 11 provided a further example of neutral language. When discussing his aims of the legal process he stated *"I wanted to end it out of court and stay friends" (P11).*

The statements by participants 5 and 18, quoted in the first paragraph of this section, raise the question whether the emotional state of some fathers at the time of separation did not prevent them from using the legal remedies available to them. The report by participant 18 in this regard is especially significant. He reported that at time of separation he did not challenge his former wife when she barred him from the family home and expected that he still pay for the house and support his family. He continued to say that: *"I felt powerless and angry, looking back now I should have listened to lawyers and pursued it legally,my state of mind at the time was anger and stress"* (P18).

Bias

The participants in this study expressed a pervasive feeling that they were outcasts and were subject to negative bias in all quarters from the moment their wives separated from them. While, as will be discussed below, most of these feelings of bias were expressed in the context of legal proceedings, fathers also reported that they experienced negative bias in other quarters. Participant 9, for example, reported: *"I went to the school with my parents to see my children and was not allowed - teacher said I was a violent father"*. What makes this report particularly notable is that this was a case where the spouse relocated overseas with no warning to the father. Therefore, on top of normal grief emotions experienced by a left person, this father also had to deal with what he perceived to be the very biased negative input from the broader system. Implicit in this report is the suggestion that the mother deliberately spread untruthful rumours.

A pertinent subtheme, which emerged when fathers discussed their perception of unfairness in legal proceedings, was bias in favour of the mother. For example

participant 20 complained that during court proceedings *"I was treated like a criminal and a wife basher"*. Other examples of how fathers perceive the system were provided by participant 17 who stated *"fathers' are treated like second class citizens"* and participant 23 who complained that *"men are on the back foot"* and added *"I felt like I was on trial, I had to prove myself"* (P23). The perceived unfairness of the system was repeatedly raised by participants, often in strong and emotional language as is evidenced by the father who described *"the legal system [as]... behind the female walking out, females get looked after 99% of the time, they don't care about the males, they get shafted"* (P5).

What is notable is that this feeling of being discriminated against is even perceived by fathers in the mutual group who were satisfied with the outcome of their cases such as participant 6 who said that there is *"an expectation of men having a problem in the system"*.

While the previous excerpt suggests that the system as such was blamed for this negative bias, many participants in fact blamed their former spouse for the situation. Participant 24, for example, reported that his former wife *"accused me of sexually abusing the children, I was wrongly accused, she started trouble again and saw a psychiatrist at PMH (hospital). He found nothing wrong and the court took his advice"* (P24)

The perception that their spouses deliberately lied was very strong. Participant 15 stated *"perjury is rampant in the family court, she said my family were all lying on the stand and that I would never see my daughter again"*. Dishonesty was not only alleged in respect of the merits of the case, but also in respect of ancillary matters such as legal aid. For example, participant 24 complained, *"my ex didn't have to pay any legal cost because she lied and said she had no money"*. (Bias in respect of legal

presentation was a prominent theme but will be discussed under a separate heading below.)

Participants were particularly aggrieved that they were put in a position where they had to demonstrate that they were good fathers merely because their former wives decided to separate. This is well demonstrated by participant 19 who argued, *"if you are a good parent why do you have to fight, if she doesn't want 50/50 she should have to prove I am not a suitable parent"*.

There was also a strong perception that the legal system did not deal with these lies very effectively. Participant 24 stated that he was *"dissatisfied the system can't handle my case- lack of ability to judge someone who is lying and using the system..... no way to stop lying and dishonest people"*.

In fact, the general perception of the participants was that the legal system was generally lenient when it dealt with mothers. For example, one father described his experience as follows:

"mother breached orders, didn't come to court, lawyer made an excuse and had the case adjourned, even the judge said the mother was using the court to her advantage, court orders broken and not punished, if the family court want people to take their court orders seriously they need to do something about it when the court orders are broken, you can get away with anything" (P2).

While, as was said earlier, it was noticeable that while most fathers believed that the system was biased in favour of mothers, two distinct groups could still be identified in this respect. First there were the fathers that appeared to be fixated on the topic of bias and tended to relate most questions to their perception that the system was biased. For example, when one father was questioned regarding the procedures

used in court and whether they were unfavourable or favourable he answered *"unfair, humiliation on the males, more you try to fight it the more problems, male not getting to have his say, females get as much help as they like"* (P5). Secondly there were fathers who perceived the system to be biased, but who gave balanced and objective responses. Two examples illustrate this well. The first is participant 21 who reported *"the counsellor was very good, definitely on side with the mother, handled the process efficiently but personal bias showed she was on the mother's side, still competent and professional"*. Participant 16 also felt that *"bias in favour of the mother exists in the family court, it's understandable, for the father you are conscious that the odds are against you"* (P16). Interestingly this participant felt differently in respect of the mediation staff whom he described as *"highly skilled and very professional, I had absolute confidence that no sides were taken"* (P16).

Legal Representation and other Assistance

As was mentioned in the previous section another salient theme that was mentioned as a factor that influenced satisfaction with the legal system was the availability and quality of legal representation for Family Court proceedings. Participant 7 for example complained:

"I am a self-represented litigant, my wife has a good lawyer they do this as a profession, they are manipulating the system to get the best result for their client, I don't consider it fair and reasonable for them to use the system to better their end, I'm ignorant of the system I can't exploit it I have to put up with their harassment literally, the public should be protected from lawyers, applied for legal aid twice and been rejected twice, two days each to get a response, lost

opportunity to take an issue to the legal system, wife had taken kids away”.

What is clear from this excerpt is that this participant felt that lawyers manipulated and exploited the system to the advantage of their clients and that they felt harassed. This excerpt also reveals the sense of helplessness experienced by many participants in this study.

A number of participants were very dissatisfied with time and costs involved in family court disputes. As participant 9 put it, *“ I was told if you want your children back you'll need a QC and \$230 000 also that it would take a long time and be very expensive because English and Scottish law were different”* (P9). Many participants felt hopeless because they could not afford paid legal representation often found that there was no assistance available to them. Participant 7 reported

“politicians and members of the justice system point to facilities available to the public but there is no money there, they are not available. I rang up Legal Aid; they directed me to Legal Aid Midland who told me there was a lawyer there once a month to do wills only. I was directed to the Citizen's Advice Bureau and the staff member told me that in all her time there no one had ever requested assistance from lawyers. If people aren't self reliant you go around in circles, nothing will happen, I spend all my time learning to be a lawyer”.

Many participants were dissatisfied with the legal system because they felt that their issues were not dealt with. This was well demonstrated by the participant who said that *“they [legal system] don't deal with it because fathers can't afford to go to court, whereas the mother gets legal aid free, can't fight anything, I don't have the*

money to go to court" (P20). Consequently there was a feeling that was summed up by participant 5 when he said that *"females say whatever they like, males don't get any representation"* and that *"males don't get to have their say and the females get as much help as they like"*.

It also appears that even where free services are available fathers find it difficult to access them. Participant 23, for example, reported *"I went to all the free services in my area but my ex had already been to all of them so they told me they couldn't help me due to a conflict of interest, they didn't want to get involved with angry men"*. This demonstrates the disadvantaged position lefts often find themselves in because the leaver has time to prepare and utilise resources, often to the exclusion of the left.

Regarding the quality of legal representation the information provided by lawyers to fathers was often mentioned. A notable number of fathers complained that the information given to them was negative. For example participant 15 reported, *"the lawyers told me that 9 out of 10 cases go the women's way"*. Another example of information provided by a lawyer focused on hopelessness and a lack of control over the family court proceedings. This point was illustrated by the father who reported, *"the lawyers told me there was nothing I could do. Big emotional and financial resources needed with no guarantees"* (P24). Finally, some fathers also described their lawyers as negative in their interaction and as a source of stress. One example is a father who described his experience with lawyers as follows: *"the lawyers put a negative vibe on the court experience and my ex-wife's lawyer added grief and stress"* (P20).

While not very clear, there are indications that fathers only value legal advice that is in accordance with what they want to hear. For example, after reporting that

his lawyer *"told me what to expect"* participant 5 went on to complain, *"I didn't get any representation"*. While not explicit there is an implication that some participants believe that lawyers should help them accomplish what *they* expect and want to achieve, irrespective of what the legal and factual situations are. This is clearly an unrealistic expectation that cannot be met and will therefore lead to dissatisfaction.

In contrast other fathers described positive interactions with their lawyers and with legal representation. One father described his lawyer's representation as follows *"my lawyer was exceptionally good, he was motivated to do the fair thing"* (P16), whilst another father focused on the nature of the legal advice and his level of contribution to his case *"reasonable advice, I had input"* (P14). It should be noted that although this participant was left, he appears to have felt a greater degree of control than other fathers who were left and dissatisfied with the legal system.

Participants who expressed satisfaction with the legal assistance they received from their lawyers, were usually also satisfied with the assistance they received from other sources such as legal officers within the system. A good demonstration of this is the report by participant 21 that *"the legal officers were very good at diverting us away from court and into mediation and counselling, they weren't aggressive but very encouraging and supportive of us using this avenue"*.

The majority of fathers believed that there should be more counselling and advocacy for individuals who enter into family court proceedings. For example participant 10 stated *"look at it more through counsellors, look at a lot more counselling so people can get a grip on what's happening"* (P10). Fathers saw this procedure as essential in building positive attitudes and encouraging individuals to consider both parties, the children and the *bigger picture*, rather than what they want.

For example participant 6 stated *"I'd like to see more advocacy done so that more people go in with my attitude, rather than trying to get the best for themselves"*.

Judges

Fathers' perception of the judge's role in Family Court proceedings was also found to influence satisfaction with legal proceedings. Some fathers described the judge's decision-making process as ad hoc and unpredictable in nature. Participant 15 provided an example of this by stating *"the outcome depends on how a judge feels on a particular day, if you put the judge off side you've had it"*.

Another point raised by fathers was the judge's lack of flexibility and inability to manage cases on an individual basis. Participant 5 described this perception in the following way by stating, *"whole legal system sucks, laid down before hand, need to look at individual cases, law needs to be more flexible"*.

Once again it should be noted that the expectation participants have in respect of what judges can do may be totally unrealistic.

Other fathers were much more objective regarding the judge's role in family court proceedings. They understood the difficulty judges may experience when making decisions regarding others lives by, for example, recognising that *"the judge is just a bloke, he has to look at everything and come down in the middle which is hard, he left no stone unturned and made sure we knew where we were at"* (P16).

Outcomes

There were a small number of fathers who provided instances where the legal system gave them the outcomes they wanted. Participant 8 provided an example in relation to his former wife taking his child out of the country against his wishes *"an*

order was put in place that the child be brought back to the country from New Zealand and not be taken out again". In similar vein participant 8 also reported, "when she refused to turn up to court, the magistrate provided a recovery order and gave me every bit of advice and help". While participant 16 reported that "in the end I and the kids wanted 50/50 and my wife wanted one home. She refused till the mediators showed the equality of parenting to her and I got 9 days a fortnight".

What is notable is the number of satisfied participants credited the outcome reached to mediation. At least one participant did not believe that a mutually satisfactory outcome would have been achieved in courts. This was participant 16 who stated that: "former wife and I able to resolve with mediation. May not have happened if we had gone to court" (P16). Based on the finding of this study it appears that many fathers who were satisfied with the Family Court proceedings believed that the key to achieving a satisfactory outcome was by actively engaging in the mediation process. Illustrative of this is one participant's remark that "one of the biggest pluses is mediation, it's a lifesaver" (P6).

From the comments made by the participants who were involved in mediation it appears as if they valued the level of control they had, the feeling of being heard and the fact that they could do it in a collaborative fashion. For example participant 16 said he and his wife had a "choice to mediate a resolution both parties accepted, compromised and had faith in". He continued to say that they negotiated a resolution in a "balanced and rational way with both parties being heard alone and together" (16). Another participant reported "I went in with her by my side and when any issues arose that we hadn't considered we discussed it and sorted it out there" (P6). It also appears as if mediation brought a sense of "closure and termination" to their relationships (P6).

What was also prominent was the number of participants who linked the satisfactory outcome they achieved to the interaction with their former partner rather than allowing the court to make this decision. For example participant 16 discussed court outcome in regard to a shared care arrangement and stated, *"I was hopeful but not confident regarding a 50/50 arrangement. Key to getting it was my former wife not the legal system"* (P16). Participant 6 also highlighted the importance of positive interaction with his former wife and described the collaborative process they engaged in prior and during legal proceedings as follows: *"I see this as an issue with my ex, we came to an agreement, we had to go to the system, I went in knowing what she was going to say with her by my side, if there was anything we hadn't discussed we sorted it out together there"*.

Nevertheless there were a large number of fathers were not happy with the outcome of their case. For example, participant 19 reported: *"I aimed for 50/50 thought this was fair, she thought one afternoon a week was enough, she could do this. I was taken through the ringer and spat out at the end, nothing to show for it, after \$22 000, very unfair, it stinks"*.

What is very prominent in the excerpts quoted on this page is the expectation of both fathers in the mutual group (P15) and unilateral group (P19) that they have a 50/50 right to their children. There is no legal foundation for this expectation and it raises the question as to the role which unrealistic expectations play in whether somebody is satisfied or dissatisfied with the outcome of a dispute. This question will be explored further in the next paragraph.

In conclusion to the discussion of this theme of outcome, it is worth exploring a point raised by participant 16 when he questioned whether he viewed his court outcome as positive *"because we were both listened to or because I got what I wanted*

in terms of outcome in relation to contact with my children" (P16). This seems to be directly related to the distinction between what Tyler (1984) would refer to as procedural justice (*we were both listened to*) and distributive justice (*I got what I wanted in terms of outcome*). It is also notable that participant 5 expressed his dissatisfaction with the legal system because he felt that "*all is decided before I walked in to the court, the outcome was predetermined*" (P5). The latter excerpt implies that he was not satisfied with the outcome because he thought that the process was not fair.

The question posed is therefore whether fathers enter the legal process with unrealistic expectations (hopes) regarding the legal situation and therefore consider any process that fail to give them that unrealistic outcome as unfair, or whether it is the system itself that is unfair. It is notable how many fathers associated satisfaction with terminology such as *getting what they want (P1, P2, P4)* with out any reference to the legal situation. It appears as if such fathers will never be satisfied with the outcome or the process. In contrast somebody like participant 6 who "*went with the attitude of making the best outcome not what I wanted*" was also satisfied with the process, albeit the mediation process. It is notable that this is despite participant 6's perception that men have a problem in the system. A question that arises from this is the degree to which the realism or otherwise of fathers' expectations contribute to their eventual satisfaction, especially as many of the fathers, when asked to define satisfaction in general, linked satisfaction to the fulfilment of their expectations.

Mediation

Mediation was a major theme identified but will only be discussed briefly here as much of the material was reported in the previous section.

It appears as if the benefits of using the mediation process were made known to fathers. Participant 21, for example, stated *"the legal system made it fairly clear if we used conciliation less cost and less emotional trauma and retain more personal control and flexibility than going through court and getting orders"*.

An important point made by fathers is that they did not think that mediation would work in all cases. Participant 16 summed this up by saying: *"both parties have to have the emotional and intellectual capacity to facilitate working through different issues and coming to a decision, if there is anger and entrenched positions mediation would not work"*. Participant 6 stressed that parties should have the right mind-set when he said: *"I went with the attitude of making the best outcome not what I wanted"* and later *"too many people go to court with the attitude of wanting everything and forget that "hey" you loved this person once"* (P6).

Where mediation did not work, the blame for its failure was generally placed on the behaviour of the other party. For example participant 23 reported that *"mediation was not possible due to her being unreasonable, not wanting to meet in the middle"* (P23) while participant 24 complained that *"mediation was a waste of time due to stupid comments by my wife"* (P24). Some participants blamed lawyers, particularly their wives' lawyers, for their failure to use the mediation process. For example, participant 20 stated, *"my lawyer offered mediation and her lawyer knocked it back, her lawyer didn't want to settle, he wanted to go to court"* (P20).

Fathers' Role

An area where men may have unrealistic expectations are in respect of children. Given that all the participants in this study were fathers, it is not surprising

that most of them related their appraisal of the Family Court to matters related to children, also child support requirements.

A large proportion of participants found it difficult to reconcile the financial support they had to pay with the limited contact they have with their children. They also complained about the limited input they had in how their children were being raised. Participant 15 illustrated this point by stating *"child support is a huge issue, how do you expect someone to want to pay when you never see the child, some men it suits them fine; a cheque and no responsibilities, not me"*.

In some cases fathers reported that they thought that their former partner prevented increased contact with their children for their own financial gain. Participant 1 stated that *"it all comes down to child support, she wants to keep the kids for that amount of days to maintain that amount of money"*.

Fathers also feel that the mothers of their children do not always use child support payment to the advantage of the children, but feel that they cannot do much about it. In this regard participant 20 related: *"I tried to change the procedure in which my money was used, wanted my pay assigned to Western Power, water, groceries etc wasn't allowed. So she can go to hotels, casino and I can do nothing to stop this. Law clerks told me that she could blow it [child support money] all on hotels and at the casino and you can't do anything about it"*.

What is notable is that very few men, even those who were satisfied with the system, focussed on the best interest of their children. Instead, as excerpts in earlier sections demonstrate, fathers tend to believe that they have a 50/50 right to their children. It is therefore easy to link their dissatisfaction with unrealistic expectations. However, the data invite a deeper level of analysis that reveals that ultimately the dissatisfaction is with the narrow manner in which the legal system conceptualises the

role of a father, namely focussing on the instrumental dimension thereof, while ignoring other dimensions. Put in terms of the rights of the children, fathers believe the law focuses exclusively on children's material needs and not on their psychological needs.

The feeling that the law emphasises material needs are often explicitly stated by participants such as P20 who stated that the *"fathers' role is not recognised, is irrelevant, the children are physically but not mentally being looked after"*. He expanded by complaining of *"not having any input into how the children are raised, its okay for me to pay \$1200 a month, no say on how the kids are raised as long as they are being fed and go to school, it is considered an acceptable environment for them, there is so much more to this when raising children"*. The impact this has on fathers is well expressed by participant 12 who said: *"I was replaced in every way, I could not impart my values on my child"*.

As was demonstrated by a statement made by participant 19 (see discussion in section on bias) fathers' also feel aggrieved that while they are seen as a good parent while married they must prove that they are a suitable parent once their spouses leave them.

Central Themes found during the Analysis of Indirect Evidence

A review of the above intermediate themes identified as related to fathers' satisfaction or dissatisfaction with the legal system suggest that there are five central themes that underlie their perception of the family law system.

It firstly appears that the initiation of separation and the circumstances thereof have a pervasive influence on how participant view and experience their subsequent interaction with their partner, society and the family law system. Two important sub-

themes were identified in this regard. To start with, it emerged that some of those in the unilateral group felt that they did not have access to resources because their partners have already used them. Next it appeared to some of the participants in the unilateral group were so angry at their former partners that it coloured their perception of not only their partners, but also society and the legal system.

The second central theme, closely related to the first theme, is the strong emotions reported by all the participants, but in particular those in the unilateral group. A sub-theme that was identified in this regard is whether the emotions that some of the participants experienced may have been so strong that it prevented them from engaging effectively with the system.

The third central theme is that all the participants, irrespective of whether they were in the mutual or the unilateral group, believed that the legal system was biased against fathers. This sense of bias appeared to be much stronger in the case of fathers in the unilateral group. It also appears as if this sense of bias is to some extent linked to the expectation that fathers have a 50% right to their children.

A fourth central theme that emerged was that fathers' perception of the family law system was strongly influenced by the outcome they achieved and it appeared that their unrealistic expectations in this regard predicted that they would never be satisfied with the outcome. However, for some participants the process seemed to be important and they, at least, speculated that the element of control mediation gave them, may have contributed to their satisfaction with the outcome of their disputes.

The fifth central theme that emerged was that of all the losses that they had suffered participants seemed to exclusively focus on what they perceived to be the loss of their children. In this regard, it appears as if fathers felt that their role as

fathers was being eroded by law and that only their role as contributors of material matter was acknowledged.

Unresolved Issues at end of Stage One

A number of issues remained unresolved at this stage of the study and appeared to require further examination.

While not a central theme, the role of participants' expectations on their experience and perceptions of the family law system emerged as a factor that could be very influential in determining whether they were satisfied with the system. As this only became apparent during the final stages of analysis, there had not been an opportunity to explore this theme further by inviting participants' input.

Many fathers discussed the need for specialised support services and initial analysis revealed that the nature and purpose of these services needed to be explored in further detail in order to provide detailed recommendations on this issue.

Finally, in the course of the analysis it appeared that fathers' emotional status and inability to obtain support may hinder their engagement with the family legal system. However, these deductions, especially the one about the impact emotional status has on a person's ability to engage with the system, were based on the responses of two, but particularly one participant. Here as well there had not been an opportunity to invite the input from participants about the theme that had emerged.

It was therefore considered important to reinterview a selected group of the initial participants in order to explore the mentioned issues further. This was also seen as an opportunity to test a very tentative model that the researcher had developed to explain why fathers are satisfied or dissatisfied with the legal system (see figure 6). In this regard it was hypothesised that the further the father was towards the

Continuum

Mutual Agreement/Leaver

Left

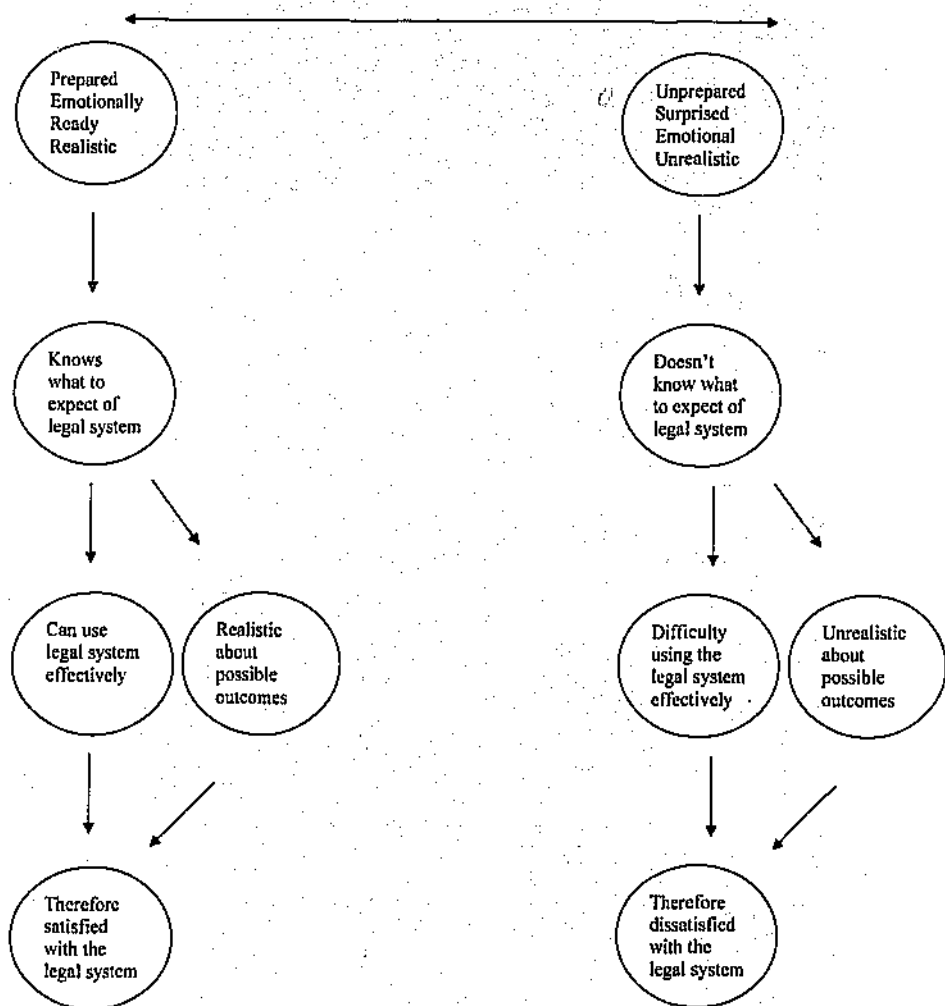


Figure 6. Model of fathers' satisfaction and dissatisfaction with the legal system

mutual/leaver end of a continuum, where left was at the other end, the better prepared, emotionally ready, and realistic about court outcomes the father was. Consequently, the father knows what to expect of the legal system and therefore he uses the system effectively and is realistic about the possible outcomes of the court proceedings. Therefore these fathers are generally satisfied with the legal system.

In contrast, fathers on the left side of the continuum were unprepared for the separation, surprised by it and not emotionally ready to deal with the situation and unrealistic about court outcomes. They did not know what to expect of the legal system and found it difficult to use it effectively and are unrealistic about the possible outcomes of legal proceedings. They therefore tended to be dissatisfied with the legal system.

STAGE THREE

Method

Participants

Ten divorced fathers participated in a face-to-face interview for stage two of the current study. Participants were recruited on the basis of their representativeness of the range of Western Australian fathers that were interviewed the first time.

Design

This study also used a qualitative design and comprised an interview. No specific interview structure was developed, but the following general topics were explored. First, participants were asked for their comments about the tentative model which was presented to them using figure 6. Next the impact of emotion, in particular anger and grief, on participants' ability to engage with the legal system was explored. Thirdly, the nature of fathers' expectations, and the impact of this on their satisfaction or dissatisfaction with the legal process and resultant outcomes was examined. Finally, fathers were asked regarding their perception of the support services which could lead to them having a more positive perception of the legal system.

Procedure and Analysis

Participants were contacted by telephone and invited to participate in the second interview. After giving them a brief overview of the findings of stage one, the questions set out above were put to them. A handwritten record was made and relevant parts were later transcribed. The researcher analysed the transcript and discussed the themes that emerged with her supervisor.

Results

Clarification by Reinterview

The following stage of the study aimed to clarify a number of questions, which arose subsequent to the initial interview process. First, a model of the impact of the separation process on the divorce process was developed in conjunction with the literature and data from stage two of the study. This was tested with a subset of the original participants to determine whether it was an accurate representation of these processes. Second, the impact of emotion, in particular anger and grief, on the legal process was also explored. Third, the nature of fathers' expectations and this impact on their satisfaction or dissatisfaction with the legal process and resultant outcomes was examined. Finally, fathers were questioned regarding the nature of support services, which were needed to address these issues.

Accuracy of the model

The majority of participants reported the model to be somewhat helpful in explaining possible impacts of the separations process on the legal process. Some participants believed that although they were categorised under the leaver/mutual agreement category, some characteristics of the left category could apply to them and vice versa. Fathers also suggested that a middle category existed which incorporated both categories outlined at the ends of the continuum. In general, fathers believed that aspects of this model could be applied to their current situation.

Impact of emotional distress on engagement with the legal process

When discussing emotional distress, fathers were able to point out the need to resolve emotional issues linked to the separation process prior to engaging in the legal

process. For example one participant stated, *"unless the emotional dimension of pain, hurt, anger and confusion is worked through and resolved in a supportive environment how can you expect someone to be intellectual and detached which is how you need to be in the legal environment"* (P16).

Fathers who believed that emotions did impact on engagement with the legal system described some of the emotions that they experienced. For example, participant 7 stated *"you can't function, shaking, incoherent and trying to restrain yourself"* Another example was provided by participant 16 who described the emotions he experienced as follows: *"emotional unpreparedness, incomprehension- unable to understand or get your head around what's happened and devastation. An incredibly emotional experience which is bigger than the two parties, there's an element of abandoning the children and public perception"*. Yet another example of emotion was provided by participant 20 who stated *"My feelings of hopelessness and lack of control have continued everyday from signing the papers and onwards"*. An example of how emotion interferes in the courtroom was provided by participant 7 who stated *"no way to prepare yourself- awash with apprehension, not attuned to what's important in presenting my case and rebutting etc"*(P7). Finally participant 20 acknowledged the impact of emotions on the legal process and the emotional difficulties men experience by highlighting the distress some fathers experience. He stated *"highest rate of suicide is among divorced or separated fathers aged 30-40"* (P20).

In contrast, one participant who was dissatisfied with the legal system believed that being emotionally prepared had no impact on fathers' experience with the legal system. He stated, *"no matter how emotionally prepared you are it doesn't*

change the unfairness of the system. Might be emotionally prepared but still have no idea about the legal system" (P19).

Impact of expectation on the legal process and outcomes

Many fathers acknowledged that they did not know what to expect from the legal system and reported a strong need for this information to be provided. For example, an "overwhelming need for fathers to be told the reality of the legal system" (P20). Another participants stated that the "court should butt in and tell you are being unrealistic" (P11). One father reported that lawyers played a key part in constructing fathers' expectations by stating, "expectations are shaped by lawyers" (P11).

The majority of fathers reported that their expectation was a 50/50 outcome, however, over time realised that this was not realistic. For example participant 15 stated that "Expectation is 50/50, the burden process would be reduced if fathers were told that the reality of this is rare".

Fathers also described feelings once informed that their expectations were not realistic. For example, participant 15 stated that "If fathers are told 9 out of 10 times you're gonna lose, it's difficult to accept and believe". Another example was provided by participant 19 who stated "expectation is fairness, told there is none, it's a shock".

Fathers also identified the link between expectation and satisfaction or dissatisfaction with the legal system. Participant 16 reported that it is "virtually impossible to achieve satisfaction if expectations are unrealistic".

Support Services needed

All participants acknowledged or reported a need for specialised support services for fathers. Two main areas were highlighted as important and these included

counselling for emotional and relationship issues and support services for legal advice and representation. One father emphasised the need for counselling for emotional issues. He stated *"separate counselling to address emotional issues is needed to bring both parties to a readiness to address the legal system"* (P16). Other fathers focused on the need for legal assistance by stating, *"[I] feel there should be a tier of the support services that assist with niggly legal questions, quick stop type set up"* (P7) and *"assistance with negotiating would be beneficial"* (P15). Yet another father reported the need for both emotional and legal assistance by stating that fathers *"need legal information service and counselling sessions too"* (P11).

Some fathers discussed feelings of isolation due to a lack of services for fathers. For example participant 6 stated *"Men are isolated from support, it's a systemic issues, women get stronger and men get further and further isolated and behind the eight ball, alienation occurs, anger builds and then the day in court arrives"*. Another example was provided by participant 16 who stated, *"men are abandoned- locks on house, lost children and nowhere to go"*.

Other fathers reported that some existing support services were not suitable due to number of issues. For example participant 11 stated *"some men's services are a hate fest, all men don't hate women"*. Other participants reported that equality was needed for men and women from support services. For example participant 20 stated *"fathers need the same access to legal services at the same cost as females receive-equal rights"*. Finally, another participant acknowledged difficulties fathers may experiences with accessing support services: *"men's groups are hard because men aren't as social as women"* (P19).

Some fathers reported a number of ideas for significant changes to the legal system. For example one participant believed changes needed to occur at the

commencement of a marriage. He stated, *"agreements should occur before marriage as to what happens to the children if a separation occurs, it should be automatically 50/50"* (P19). This participant went on to report further changes during the marriage. For example *"fixing at the point of separation is too late, a weekend course annually for couples in order to get the family allowance could help relationship issues"* (P19). Finally, another participant wanted to see changes in the structure of the legal system. He stated, *"a trend away from the legal system to a tribunal may work better"* (P15).

DISCUSSION

The aim of the current study is to try to explore the meaning of the construct satisfaction in isolation as well as in the family law context, and to endeavour to establish what exactly fathers mean when they say they are satisfied or dissatisfied with the system. This research is considered essential at this stage, as it appears meaningless to introduce legislation to address the dissatisfaction of fathers with the system if it is not clear what fathers mean when they say they are dissatisfied, and what they are dissatisfied with. As was mentioned earlier, this study commenced prior to the publication of the *Out of the Maze* report (Commonwealth, 2001) and the commissioning of the studies that led to the *Every Picture Tells a Story* (Commonwealth, 2003) and *Parent-Child Contact and Post-Separation Parenting Arrangements* (Smyth, 2004) reports. Despite the overlap between the present study and these studies the former does provide data about Western Australian fathers' responses to the question about what lead to satisfaction and dissatisfaction with the family law system.

In the course of the study 24 divorced Western Australian fathers who differed notably in respect of age, education, occupation, income, number of children, age of children and circumstances of which the separation took place were interviewed. Care was also taken to include both participants who had come to a mutual decision with their partners to separate and those who were left; and both fathers who indicated that they were generally satisfied with the legal system and those who were not. The range of this sample suggests that the data is likely to represent the thoughts, feelings and perceptions of fathers in Western Australia who have been involved in the legal system.

As an initial step the participants were asked what made them feel satisfied in general life. This was done to get an idea of what the concept satisfaction meant to them without any reference to the legal system and also to help participants to focus on satisfaction and dissatisfaction. The major theme that emerged was that participants found that satisfaction in getting the outcome they want. Although fathers raised the concepts of fairness and justice, their definition of fairness in terms of getting what they want, was seen as further support for the central theme of outcome.

When all the data on satisfaction with reference to family law system were analysed, a number of major themes were identified that were closely linked and not mutually exclusive. The main thrust of the major themes taken together will be discussed next.

Major Themes

As predicted by Campbell and Pike (2002); Dudley (1991); Emery (1994); Pledge (1992); and Umberson and Williams (1993) the participants in this study reported strong, even overwhelming, emotions such as anger, hopelessness and sadness flowing from the act of separation. There are indications that fathers' emotions are linked with their dissatisfaction with the legal system in that they displace the anger they feel for their ex-partners, on the legal system.

However, more relevant for this study was the fact that the emotions experienced by the participants acted as a barrier which interfered with their ability to engage with the legal system in a positive, constructive frame of mind and effectively utilising the procedures and processes offered by the legal system. Even when they did engage with the system, they found it difficult to concentrate and follow legal proceedings.

Participants falling outside the mutual group particularly expressed very strong emotions. Fathers in this group that were particularly angry, and also dissatisfied with the legal system, were those whose ex-wives had left the geographical area where the family had resided without any prior warning. Lehr and MacMillan (2001) found that the fathers who were in conflict with their ex-partners were also the fathers who experienced difficulties with the legal system.

In general, participants in the left group expected that the legal system should refuse to dissolve the marriage divorce because their former spouse had initiated the separation, often in circumstances that were very traumatic for the participant. They therefore approach the legal system with the expectation that they would be able to prevent the divorce from taking place. This is clearly an unrealistic expectation because of the current no-fault system. It is only possible to speculate that this may still be a remnant of the pre-1975 position where one party was seen as the guilty party. Charlesworth, Turner and Foreman (2000) point out that although no fault divorce is no longer controversial, it can still result in feelings of impotence and injustice. This was also the finding in the current study in respect of those fathers who felt that their ex-wives were to blame for the break up of the marriage, but felt that they, the fathers, were punished.

Even participants in the left group who accepted that the marriage would be dissolved, still expected the legal system to punish their former partners for initiating the divorce by not giving them residency of their children, or restricting that to 50% of the time (this expectation will be returned to later). This expectation is clearly unrealistic as it fails to reflect the legal situation where the best interest of children is of paramount importance (B and B, 1997; s68F of the Family Law Act, 1975).

The perceived failures of the legal system to satisfy these unrealistic expectations of participants strongly contributed to their perception that the legal system is biased in favour of females and fundamentally unfair. There were also two more concrete factors that contribute to this perception. First, men in the left group reported that they were often prevented from accessing legal and counselling resources because their wives have already utilised these resources (see also Commonwealth, 2001). While there is no indication that these services are discriminating against men, the reality is that these services will mostly deal with females because leavers are typically females (see Braver, Whitley & Ng, 1993; Beuhler, 1987; Moloney, Fisher, Love & Ferguson, 1996; Pettit & Bloom, 1984; Zeiss, Zeiss & Johnson, 1980). The leavers tend to contact these services before initiating the separation. Second, as in the Commonwealth study (2001), participants felt that there was a different set of rules for females when they failed to adhere to court orders and that the system was lax in enforcing its own orders when it was a female who failed to comply.

There is consequently a strong perception among men that the legal system, judges, lawyers, and even other auxiliary services, are biased in favour of females. It is important to note that this perception that the system is unfair is not restricted to only those who were in the left group; men in the mutual group shared this perception. This suggests that while emotions and initiation of the separation (together with what go with it, such as a lack of accessible resources) may play a role in determining fathers' satisfaction or not, the perceived unfairness of the system may be the fundamental factor associated with fathers' dissatisfaction with the legal system. However, before this can be said it is necessary to explore what the participants had to say about outcome.

Outcome was very prominent, and the outcome that was nearly exclusively the focus of the participants of this study was the unsatisfactory outcome in respect of their children. Not too much can, however, be read in this specific focus, as it is possible that the information that participants received prior to the interview, including the information document and checklist document, primed them to answer in terms of their children. Nevertheless, the data suggest that fathers have an unrealistic expectation that their spouses should have no rights in respect of the children if they initiated the separation, or that parents should have a 50-50 *share* of their children (for similar findings see Commonwealth, 2001; 2003). It could be suggested that these expectations have been fuelled by the 1995 amendments to the Family Law Act which emphasises that children have a right to know and be cared for by both parents, that children have the right to have contact with both parents on a regular basis, that parents *share* duties and responsibilities concerning the care, welfare and development of the children and that parents should agree about the future parenting of their children (s60B2 of the Family Law Reform Act, 1995). It appears that the 50-50 expectation may have emerged from an interpretation by fathers that shared means equal sharing.

Whatever the source of these expectations may be, the failure of the legal system to meet them is a major source of dissatisfaction for fathers. It is easy to make of this a demonstration of unrealistic expectations of the father, however, a close analysis of the data reveals that this dissatisfaction may be at deeper level. At one level it reflects the frustration of fathers that once parents separate, the onus, as they see it, is placed on the father to demonstrate that he is a good father and should retain his relationship with his children. What they find particularly frustrating is that this is the case irrespective of the quality of fathering prior to the separation. In contrast,

they point to the lack of evaluation of the parenting abilities of the man a mother may decide to live with or marry after they divorce. This feeds into the considerable dissatisfaction with the fact that the legal system, to coin a phrase, *erodes the father role* by, in the eyes of the participants, focussing exclusively on the instrumental role of the father as provider of child support, while it ignores the other roles of a father, especially as role model and educator. This finding is consistent with research conducted by Arditti and Allen (1993); Campbell and Pike (2002); and Dudley (1991). The fact that another man often takes that role is clearly something that most participants found unacceptable and they see it as a fundamental flaw in the legal system.

For the participants this loss of all, or at least a major part, of their father role, was the loss which was discussed most often. In fact, none of the other losses, for example, mentioned by Emery (1994), namely the loss of one's mate, cherished possessions, dreams, shared goals, life roles, control, trust and security were mentioned.

It is also important to explore what it means to be a father. Horowitz, McLaughlin & White (1998) and Muzi (2000) point out that despite evolutionary theory suggesting that men hold an opportunistic attitude toward mating, the percentage of men who view parenting as a life-enriching experience and who feel strongly that they want to become parents is actually greater than the percentage of women who feel this way. It is informative that Smyth (2004) found that for many Australian fathers "with shared care, their own need to be involved as a parent seems to be a key motivating factor for 50-50 care" (p.126).

In conclusion, it appears that what fathers' perceive to be unfair in the system may in part be at a procedural level as envisaged by Tyler (1984), but it goes beyond

that to a feeling that the Family Law Act and the legal philosophy that underpins it, is fundamentally unfair. In this regard the current study's findings are similar to those of the two recent Commonwealth studies (2001; 2003).

Practical implications

While this study did not set out to validate Emery's (1994) model it found strong support for a clear difference between participants who with their wives (mutual group) made the decision to divorce and those who were in the left group. There is no doubt that those who were left found it both emotionally and practically difficult to deal with the legal system and were less well informed about what their rights were and what they could expect. This did not only impact on their long term judgment of the system, but negatively influenced how they engaged with the legal system and exercised their rights. For many fathers their feelings of anger, shock and denial reduced their ability to take an objective and active role in their case and ensure a satisfactory outcome in regard to contact with their children post divorce.

One strategy that could be introduced to address these issues is early intervention with fathers as soon as possible after the separation. This intervention could be in the form of counselling to help them deal with the emotions and the losses they are suffering and education about the legal system and their rights and duties. This could assist to prepare fathers for engagement with the legal system. It is unlikely that this will work for all men because as some participants pointed out there are men who will take a long time, if ever, to come to terms with their feelings of loss, humiliation and consequent anger. Given the fact that the left are mostly men (Braver, Whitley, & Ng, 1993; Buchler, 1987; Menaglio, 2003; Moloney, Fisher, Love, & Ferguson, 1996; Pettit & Bloom, 1984; Zeiss, Zeiss, & Johnson, 1980) it

may be appropriate to create support services exclusively for them, which are independent of the Family Court.

Future Directions

This study only examined the factors that influence fathers' perception of the legal system and research is required to examine the perceptions of females including mothers and men in general's views about family court proceedings, to ensure that a complete and accurate picture is obtained. This has now, to some extent, been done by the Commonwealth studies (2001; 2003) and Smyth (2004).

Most of the recommendations that one would make on the basis of the present study have already been made in the two recent Commonwealth studies (2001; 2003) and to a much lesser degree the Smyth study (2004). For example, the recommendations in the Commonwealth report (2001) that treatment should be fair and equitable (recommendations 1 and 7); that there should be services for men (recommendation 8); increased legal aid funding (recommendation 9) and personal counselling services (recommendation 15) should, in theory address many of the factors that made Western Australian fathers dissatisfied with the legal system. Likewise recommendation 1 of the Commonwealth report (2003), that envisages the introduction of a "clear presumption, that can be rebutted, in favour of equal shared parental responsibility, as the first tier in post separation decision-making" (pxxi), should reduce some of the dissatisfaction experienced by Western Australian fathers.

Smyth (2004) highlighted the need for emotional support to parents. The outcome of this study also suggests that more research should explore the impact parties' emotional states have on the degree and nature to which they engage in family court proceedings. It is in the best interest of children that both the parents engage

with the system, and the results of this study suggest that this may not always be the case. In order to further explore this specific research question it is necessary to determine what the indicators are that a person is engaging or not engaging with the legal system.

The finding that fathers feel that the current legislation erodes their parent role requires more investigation. From a therapeutic jurisprudence perspective it is very important to explore this finding further, in order to determine how the current legislation can be amended to deal with this perception. Therapeutic jurisprudence proposes that the law can act as a therapeutic agent whereby legal rules, legal procedures and roles of legal professionals such as police, lawyers and judges can result in social processes that often produce therapeutic or anti-therapeutic results (Simon, 1995). Therapeutic jurisprudence aims to promote sensitivity to such consequences and aims to reduce anti-therapeutic consequences and enhance therapeutic consequences without sacrificing due process and justice values (Simon, 1995). It will be a challenge for legislators to find a way of involving fathers who do not reside with their children at a non instrumental level, particularly if the mother enters into a new partnership. In the Commonwealth report (2003) there is an attempt to highlight factors such as religion and culture and the suggestion that this should be effected through parenting plans (see also Smyth, 2004). This issue seems to require further investigation.

As was mentioned in the introduction, previous research, which has examined the concept of satisfaction, has failed to provide a clear definition of the concept or identify the factors to take into consideration when measuring satisfaction. The current study identified a number of factors relating to the concept of satisfaction in general including a positive feeling or emotion, expectation, justice and outcome.

When exploring satisfaction in relation to the legal system factors including justice/fairness, systems interaction and recognition of the father role were identified. Therefore, future research should consider these factors when examining the concept of satisfaction.

Conclusion

It appears then that Western Australian fathers' satisfaction with the family law system is to some extent influenced by the circumstances of the separation, their own emotions, the availability of resources, and procedural justice matters. However, ultimately it is their perception that current family law is unfairly biased against men that fuels their dissatisfaction. Recent recommendations may change the situation. In part men's unreasonable expectations, ignorance and their own bias may play a role, but the problem may be deeper. The question that arises is whether the legal thinking has kept up with fathers' perception of their parental role and whether it is not a case that the legal thinking works with a father role that is different from the role society today expects of fathers. There is no doubt that some fathers still adhere to the patriarchal role of a father, and they will have a problem with the current legal system because it focuses on the best interest of the children. However, there were clearly a number of fathers in this study who believed that the legal system was not acknowledging the complete role of a father and this is an issue that should be explored further.

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Appendix A

Interview Schedule

(A)

What is satisfaction?

How would you define satisfaction?

What leads you to feel more or less satisfied?

(B)

1) Can you tell me the reasons why you considered the outcome of your case to be fair/unfair?

2) Can you tell me the reasons why you considered the procedures used in courts to be fair/unfair?

3) What are the reasons you considered the legal system's handling of your case fair/unfair?

4) What about the legal system's overall performance of duties was favourable/unfavourable?

5) What about the legal system's courtesy was favourable/unfavourable?

6) What about the legal system's honesty was favourable/unfavourable?

7) What about the legal system's fairness was favourable/unfavourable?

8) Why were you satisfied/dissatisfied with the manner in which the legal system handled your case?

9) Why was the outcome you received different/same as the outcome you expected to receive before you appeared in court?

10) How was the outcome of your case different/same to that of most people in this situation?

11) What are the reasons that influenced your decision to seek/not seek prior advice from others on how to handle their case?

12) Why did you have/not have a choice about whether to appear in court?

Appendix B

Newsletter and Newspaper Advertisement

Fathers Wanted

Researchers at Edith Cowan University would like to talk to fathers about their role as parents and about divorced fathers' experiences with the legal system.

Please contact Janelle or Michelle on 9400-5006.

Appendix C

Information Document

You have been invited to participate in a study about fathers' contact with their children after divorce. The research is being conducted by Michelle Gobetz and Janelle Hawes, who are both Doctor of Psychology students at Edith Cowan University. They are working in conjunction with Dr Alfred Allan and Dr Lis Pike, who are supervising the project. The research has been reviewed and approved by Edith Cowan University's Ethic's Committee.

This research group is interested in investigating how divorced fathers feel about their roles as parents, and about their experiences of the legal system. Participating in the study will give you an opportunity to talk about your experiences as a divorced father. This research could provide useful information that may be used to make recommendations to the Family Court of WA.

The research involves completion of 1 questionnaire and 1 short interview. This will take approximately one hour.

Any information you provide as part of this study will be strictly confidential and will not be released by the investigators unless required to do so by law. The information gathered from this study will be used in Doctoral projects, may be used in publication, and may be scrutinised by the supervisors or the university Ethics Committee. However, no individual potential participant will be identified.

You may to refuse to participate in this study, refuse to answer a particular question(s), or withdraw from the study at any time, without prejudice.

If you have any questions about this information or about the study please feel free to ask the researcher.

Please keep this information document, and if you have any questions about the research in the future, please contact one of the researchers on the numbers below. If you wish to obtain a short summary of the findings from this study, please leave your name and contact details with the researchers. This study aims to be completed by October 2003.

Michelle Gobetz 9400 5007

Janelle Hawes 9400 5007

Dr Alfred Allan (supervisor) 9400 5536

Dr Craig Speelman (head of school) 9400 5724

Thank-you for your co-operation,

Michelle Gobetz and Janelle Hawes

Appendix D

Consent Form

I, _____ confirm that

- I have read the information sheet that forms part of this document.
- I understand the information.
- I was given an opportunity to ask questions.
- Any questions I had have been answered to my satisfaction.
- No pressure is being put on me to participate
- I agree to participate in this research study, realising that I may withdraw at any time; and
- I voluntarily sign this consent form.

Signature of Participant:

Signature of Witness:

Appendix E

Demographic Questions

AGE:

LENGTH OF MARRIAGE:

TIME SINCE DIVORCE:

NUMBER OF CHILDREN:

FREQUENCY OF CONTACT WITH CHILDREN (number of days per month):

DISTANCE FROM CHILDREN:

EDUCATION:

OCCUPATION:

INCOME:

PRESENT MARITAL STATUS:

EX-SPOUSE'S PRESENT MARITAL STATUS:

CONTACT PRESCRIBED BY LEGAL PROCEEDINGS:

Appendix F

Checklist for information provided to participants who are interested in the study.

1. Introduce ourselves-we are doctor of psychology students etc.
2. We are conducting a study, which examines fathers' role as parents and divorced fathers' experience with the legal system.
3. Participation is voluntary.
4. Any information provided is confidential.

Participating in the study will give you an opportunity to talk about your experiences as a father. This research could provide useful information that may be used to make recommendations to the Family Court of WA.