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Parental responsibilities: Reformulating the paradigm for parent–child relationships Part 2: Who has responsibilities to children and what are these responsibilities?

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ABSTRACT

This is the second part of an article, Part 1 of which proposes the paradigm of parental responsibilities to replace the discourse of rights, custody, and visitation. This Part describes the scope of parental responsibilities; who, alongside or instead of the biological parents, may have parental responsibilities vis-à-vis the child; the roles of grandparents and members of the extended family, and partners of parents, are described. The principal categories of parenting tasks are described in detail. I also show how the concept of parental responsibilities is essential for properly dealing with children in need of protection, and how the paradigm applies to courts that deal with proceedings involving children.

KEYWORDS

Approximation rule; child protection; grandparents; parental cooperation after separation; parenthood; parenting tasks; partners of parents

Introduction

In all aspects of life, while some duties and responsibilities may be a pleasure to discharge, others may well be unwelcome and burdensome. While parenting in many respects brings joy, even in families where life is comparatively harmonious, the responsibility of being a parent can be tough. In situations where parents separate, the burden for each and every member of the family group can be, and probably will be, heavy Parents, both those who have primary care and those who seek to spend time with their child, have a responsibility to do their best to meet their child's needs in relation to the provision of contact, just as they do in every other regard. It is not, at face value, acceptable for a parent to shirk that responsibility and simply say “no” to reasonable strategies designed to improve the situation in this regard. (McFarlane J. in *Re W (Direct Contact)* (2012)).

Like Part 1, this Part draws on child development literature, case law, and academic articles from Israel and a variety of jurisdictions and states. In the vast majority of cases, the standards and norms described are of universal application. However, in a specific case the reader should take advice from local lawyers.

Families and parental responsibilities

Grandparents and other relatives

In Part 1, I discuss the role of biological parents in fulfilling parental duties.

In many, if not most, cultures, grandparents take part in childrearing. For example, British research shows that grandparents are involved in caring for grandchildren in 20–40% of cases (Fergusson, Maughan, & Golding, 2008), and in more traditional societies the rate is probably higher.

However, because of the insistence on rights of parents as the means of describing family relationships, the part which grandparents play in the upbringing of their grandchildren has been the subject of litigation and legislation. In *Troxel v. Granville* (2000), the Supreme Court of the United States dealt with the constitutionality of State legislation that purported to challenge the absolute autonomy of a parent to decide whom a child may meet. The *Troxel* case aroused much debate, but it seems that it is now settled that, in many cases, grandparents have an important role in the lives of grandchildren.

Broadening the definition of family

The proposed paradigm includes another element: a broad definition of parenthood, such that any person with whom the child has a beneficial relationship, even if there is no biological connection with the child, may be included in the category of those having parental responsibilities. The literature on child development shows that a child is capable of forming good and beneficial attachment relationships with two, three, or even more figures.

If the biological parents who bear the primary responsibilities are unable or unwilling to carry out their duties adequately, members of the extended family may be able to take on all or some of the tasks of parenting. The Family Group Conference, developed in New Zealand but now in use in many other jurisdictions, was designed to draw on the strengths of a child's extended family in cases where social services had concerns for a child's safety.

There seems to be no reason to refrain from extending this system to families in which the child is not receiving all that he needs because of parental separation. For example, in a recent case the Tel Aviv District Court dismissed the appeal of the mother against the decision of the Family Court to appoint the father's uncle and aunt as guardians of her daughter, with power to bring the child up in Turkey. The uncle and aunt had brought the child up because the mother and the father were incapable of doing so. The court ordered that the child should be brought to Israel twice yearly and that there be telephone or other contact with the mother (*Re a child, Anon. v. Anon.*, 2014).

Partners

In many cases where parents live apart, the partner of the biological parent, that is, an adult with whom the biological parent has a stable relationship, may care for the child in some aspect of the child's life. These relationships may be beneficial and provide stability where the child's life has been disrupted by separation and divorce, provided that they are undertaken with full sensitivity to the needs of the child.

...So far as children are concerned, a second marriage can benefit them greatly in terms of stability, a family framework, normality, support and even love. However, coping with the difficulties of a second marriage requires the parents to direct their steps consistently, gently and sensitively, with understanding of the needs of the children (Gottlieb, n.d.).

The partner would be defined as a person having parental responsibilities toward the child, arising from his carrying out of parental functions, without attaching status vis-à-vis the biological parents.

The mere existence of a relationship with a parent will not in and of itself entitle a partner to demand powers to make decisions for the child; allocation of these powers can be done only by those who already have parental responsibilities, all of whom must be involved in making the decision. Only the biological parents, and others who may previously have been in a position of having parental responsibilities, may permit such involvement by the new partner.

Any such arrangement giving powers and authority to the partner of a parent should be brought for approval to the court, to avoid arrangements that are contrary to the interests of the child. In other words, the test should be functional rather than formal and be driven by the extent of that person's involvement in the life of the child. To avoid semantic arguments, such persons might be called "persons having parental responsibilities." The words "parent," "father," and "mother" imply a biological relationship; the term "quasi-parent" may diminish the sense of responsibility; the emphasis here is on the legal responsibilities arising out of the specific relationship. A child may thus be in the position that more than two persons have parental responsibilities (Marcus, 2012); and, in such a case, all of the adults having such responsibilities must make the necessary arrangements for carrying out all the tasks of parenting.

For the same reason, the gender of the parent's partner is irrelevant. A child growing up with two male or two female adults was not envisioned as a family when the International Convention on the Rights of the Child was drafted, even in those cases where the child is the biological offspring of one of them. Homosexual partnerships are becoming more common, as are the jurisdictions recognizing homosexual marriages. The recent General Comment of

the United Nations Committee on the Rights of the Child (2013) makes clear that, in the context of the right of the child to family life, protected under Art. 16 of the UNCRC, the term “family” must be “interpreted in a broad sense to include biological, adoptive or foster parents or, where applicable, the members of the extended family or community ...” (para. 59, p. 14).

Parenting tasks

This section is based on the academic literature and case law from many jurisdictions, and research relating to children, and on my professional experience in family law, as well as on my experience as a father and grandfather. It is intended as a guide to the principal categories of parental responsibilities, and each society and jurisdiction must fill in the precise details.

Parenting in a family in which the parents live together harmoniously consists of a variety of tasks, some of which parents share, some of which are performed mainly by one of the parents, and some of which are assigned to other persons or organisations. These tasks include caring for the child’s health, housing, clothing, nutrition, education, social needs, and emotional welfare (Kellmer Pringle, 1980); all of which include involvement of all such relatives who can contribute positively to the child’s development. Competent parenting builds independence and resilience, by building self-esteem, strong family ties, and allowing the child to make mistakes and learn from them, and the ability to adjust to new and challenging situations.

The extent of involvement of each parent in the performance of a given task changes over time, in accordance with the changing needs of the child and changes in the capacity and availability of the parents. Some of the tasks are delegated to others, all according to legal, social, and cultural norms.

As he grows up, the child will carry out an increasing number of the physical tasks—dressing, toilet, washing, eating, and so on—by himself. Later on, the child will be at school for part of the day and may stay overnight with relatives or friends.

A child may have special needs arising from physical, developmental, emotional, or other disabilities and one of the parents may be better able than the other, physically or emotionally, to look after those special needs; another child may be especially talented in some field, and one parent may be less capable than the other of encouraging and advancing the child in that area.

As the child gets older, the parents are gradually divested of most of their parental responsibilities; and finally, when the child reaches legal majority, there are no longer matters in which the parents have legal (as opposed to moral) responsibilities.

All this applies in an intact family, and there is rarely a need to discuss who does what. Each parent recognizes the talents (and limitations) of the other,

and together they provide, almost instinctively, all the child's needs. Only in the case of disharmony is there a need to talk about division of activities. The division may be in different ways: by allocation of time spent with the child according to the child's needs and the ability of each parent to devote time to the child, balancing the other demands on the parent's time (work, studies, etc.), or by allocating decision-making in certain areas, or agreeing who is to carry out specific tasks, one parent or the other, or those who are not parents. Of course, both parents bear the ultimate responsibilities for the child's welfare.

Children learn about couple relationships primarily by observing their parents. For this reason, one of the primary tasks of parents who are separating or living apart is to convey that they respect each other, and that they can, despite everything, communicate in a civilized fashion. This may require professional help, especially in learning to differentiate between the negative emotions created by the loss of the dyadic relationship of the parents and the completely separate relationships between each child and each parent:

“He/she is no longer my spouse/ lover/ friend, but he/she is still, and will always be, the mother/father of our children.” (Direnfeld, 2015)

The physical and emotional effects of violence against children are obvious and well documented, but recent research has shown that neurological damage, specifically in nerve connectivity, is caused by child maltreatment (World Health Organization, 2016) and instability and violence in the family (Drury et al., 2014). Even *in utero*, the brain development of the fetus is affected by mother's stress. This is attributed to failures in gene expression and other causes. Such damage has been linked to learning disabilities (Aran, 2017), autism and asthma (Walder et al., 2014), mood disorders in adults (British Neuroscience Association, 2013), and obesity (Hohwü, Li, Olsen, Sørensen, & Obel, 2014), among others.

All intimate partner violence, and any emotional, economic, and other pressure by one partner to the other, are, of course, forbidden, but where the partners have children, or even when one of them is pregnant, the paradigm of parental responsibilities focuses attention on the damage to the child and the overriding duty of parents to understand that physical, verbal, and emotional violence and abuse between the parents is maltreatment of the child.

The joint responsibility means that they must not take unilateral actions that affect any aspect of the child's relationship with the other parent. In a case where the father applied for the court to transfer custody of the children, who were in the custody of the mother, because she had been diagnosed with cancer in an advanced stage, without any prior discussion with the mother, the New Jersey Superior Court said this:

Notwithstanding the parties' present positions as legal adversaries, they still remain, more importantly, joint parents and joint legal custodians. In fulfilling their roles

and responsibilities to their children, it would certainly have been logical and appropriate for both parties to jointly cooperate on the traumatic issues before them, and to engage such a professional for the benefit of the children, as well as themselves, to gradually prepare the children for a potential future transition of custody if and when medically necessary (*A.W. v. T.D.*, 2013, p. 9).

This also includes decisions to relocate (see the following paragraphs).

A child will almost inevitably have new or greater needs because the parents separate and will need emotional support in dealing with the stages of grief caused by the loss of what is familiar, including shock, denial, guilt, anger, bargaining/depression, hope, and acceptance, according to maturity and other factors (Kubler-Ross, 1969). Apart from this, the categories of parental tasks do not change. There is, however, a need to reallocate some of them in light of the new circumstances, including changes in living arrangements. An efficient and lasting division can only be effected if consideration is given to each task separately, to the needs of the specific child, including his temperament and his reaction to the separation, and the ability and availability of each parent to meet each of his needs.

The following sections do not purport to list or describe all the different responsibilities of parents. Each child has his specific needs. Siblings may differ widely from each other in temperament and educational achievements. Loving parents will take these factors into account, whether they are living together or apart. What follows is, therefore, a consideration of some of the main categories of parental tasks, and the ways in which the paradigm of parental responsibilities may improve decision making about the child.

The presentation of responsibilities that follows is based on what I believe to be universal values. However, each jurisdiction has values that are dictated in part by the legal system as a whole and, in part, by the cultural norms of each community within the jurisdiction. This means that the types of responsibilities and their scope need to be adapted to the particular case and the particular place; but the principles of parental responsibilities remain in full force.

Identity

Identity and self-esteem develop over time. As a child grows up, he learns about himself, as an individual and in relation to others: those things that make him different from others, and those things he has in common with others. From infancy, the child learns to see himself and others in terms of his relationships with his parents, and thereafter siblings and grandparents and family members. The definition of his family may change: although his biological or adoptive parents remain parents despite separation, and the parental responsibilities remain with them, new people may become members of his family grouping—step-parents and step- and half-siblings—and all of these may factor in the establishment of identity.

As time goes on, the child becomes aware of other influences. From all of these the individual builds his personality, including how he relates to others, and he identifies groups to which he belongs, those people or groups who are like him or his group, and those who are different.

The child needs to know who he is. This means that his parents are under an obligation to make themselves known to him, and each of them is obliged to let him know about the other, such that he will have a feeling of belonging.

In the same way, the court may order that a man, who is registered as the father of the child and whom the child regards as his father, but who is in doubt as to the child's paternity, as bearing paternal responsibilities regardless of the results of tissue typing or other scientific testing. For example, the Family Court of Australia recognized the possibility of denying parentage, that is, legal recognition of the status of parent, to one of the parties and at the same time allocating to him "equal shared parental responsibility" (Mason & Mason and Anor, 2013). This means that in the vast majority of cases, the child needs to be told who his parents are, and enabled to establish and maintain a relationship with them, regardless of the legal status of the relationship between them.

The case of *Nazarenko v. Russia* (2015) in the European Court of Human Rights concerned a couple who brought up a child as their own. After separation, the parties agreed that the applicant and the child's mother should share the care of the child equally, but in fact the applicant took over the lion's share of the care. However, when it was established that he was not the biological father, all of his involvement with the child was terminated by the court in Russia. It appears that the interests and needs of the child for a continuing relationship with a positive parental figure were not considered. The applicant's petition to the ECtHR was based, however, on Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which states that "1. Everyone has the right to respect for his private and family life, his home and his correspondence." However, the child was not a party to the proceedings, and there were no submissions regarding the child's right to family life. The court decided that it was possible to extend the definition of family to include the situation in that case, and that there had been a breach of Art. 8, such that the decision should be reversed. This was, of course, the correct result, but it could have been better reached on the basis of the obligation on the mother not to end the relationship of the child with the person whom she had regarded as her father for the first five years of her life.

In a case that may be regarded as the inverse of *Nazarenko v. Russia* (2015), the Family Court in Haifa, Israel, in *L.A. and T.A v T.H.M and the Attorney-General* (2016) refused the application of the plaintiff to conduct testing of the paternity of a child aged 10 who was registered as his son. The court found that the plaintiff had no real basis to suspect that the child was not his, but declared that his "right" to know the truth about paternity was overridden

by the “right” of the child that his best interests should be preserved, especially as the child regarded the plaintiff as his father for all purposes.

Love, attention, stability, and time with each parent and with siblings

It may seem unnecessary to point to love and affection between parents and their children, which are instinctive, as one of the tasks of parents. However, as we have seen in Part 1, in the section on Children as the Victims of Adversarial Proceedings, when parents are in conflict, the task of providing a loving environment is sometimes neglected or even forgotten.

When one parent seeks to deprive the child of a loving and caring relationship with the other parent, the result can be severe distress, including contact refusal. This is sometimes called **parental alienation**, even though not all contact refusal is a direct result of the actions or words of one parent. Except in those rare cases in which contact refusal is justified (e.g., where it is proven that the child has been subjected to serious abuse by the parent he refuses to see), the court may find it necessary to impose sanctions, including fines and imprisonment, on a parent who fails to comply with orders for contact between a child and a parent; usually, the threat of sanctions is enough to persuade the recalcitrant parent to cooperate, and the prospect of the imprisonment of the parent is often enough to cause a child to comply with a court order for contact. An Israeli court said this:

“Negation of father,” like “negation of mother” causes damage to the healthy development of the child, and are liable to cause him fear of abandonment, psychological damage, developmental defects, and even affect his cognitive functioning (*A.S. v. A.S.*, 2016).

In that case the court imposed on the father a fine of 350 shekels (about \$100 US) for each missed visit with the mother. In addition, in the case of three consecutive missed visits, further sanctions would be imposed, including suspension of his driving license and restrictions on the use of his credit cards.

However, where the child refuses to have contact with a parent the residential parent may be, at least partially, at fault. In an extreme case, where the residential parent is found to be responsible, the court may award compensation on the basis of the tort of breach of the statutory duty to comply with orders of the court, and/or negligence, as the parent’s role includes the duty to act in the best interests of the child and include the other parent in the child’s life, the residential parent acted in a way which fell below the reasonable standard of conduct and thereby caused damage (see, for example, *Anon. v. Anon.*, 2007).

As a result, parents must formulate the relations between them in a manner that minimizes these effects and preserves the opportunities of each to give the child the love and affection he needs. It is their duty to the child to obtain professional help to reestablish their relationship as joint parents on a correct

footing, if they need it. If they fail to do so, this may be regarded as neglect and require intervention by child protection agencies. Parents need to carefully assess the amount of time each child needs to spend with each parent and the extended family. This is one of the vital tasks of parenthood.

It is to be hoped that parents and courts have been disabused of the idea that **overnight stays of an infant** with the father who is living separately from the mother is in some way dangerous to the child.

...in normal circumstances, the evidence supports shared residential arrangements for children under four years of age whose parents live apart from each other. Because of the well-documented vulnerability of father-child relationships among never-married and divorced parents, the studies that identify overnights as a protective factor associated with increased father commitment to child rearing and reduced incidence of father drop-out, and the absence of studies that demonstrate any net risk of overnights, policymakers and decision makers should recognize that depriving young children of overnights with their fathers could compromise the quality of developing father-child relationships (Warshak, 2014 p. 60; Warshak, 2016, p. 20).

It is for this reason, among others, that the concepts of custody, residence, primary residence, visitation, access, shared parenting, equal time, and the like are so unhelpful, as they imply exclusivity or primacy with one parent at specific times.

As the Australian experience has shown, an attempt to artificially divide the child's time equally between the parents is seldom effective. Research on the results of using the expression "**shared parenting**" in the Australian Family Law Amendment (Shared Parental Responsibility) Act, 2006, was quoted in the Family Justice Review (Ministry of Justice, 2011) (the Norgrove Report) thus:

The evidence showed that people place different interpretations on this term, and that it is interpreted in practice by counting the hours spent with each parent, disregarding the quality of the time. The thorough and detailed evidence from Australia showed the damaging consequences for many children (para. 4.23, p. 138).

The term "meaningful relationship," which also featured in the Australian 2006 reforms, caused increased litigation, again based on quantity of time (para. 4.35, p. 140). In the light of these findings, both of these provisions were substantially amended by the Australian Family Law Legislation Amendment (Family Violence and Other Measures) Act 2011.

The proposal in the American Law Institute's Principles of the Law of Family Dissolution, that the time spent by each parent with the child after separation should be based on the time spent pre-separation, known as **the approximation rule**, is based on the child's need for stability. Instability is to be avoided as far as possible. Indeed, the courts will not countenance

repeated requests by a parent to change arrangements for a child, relating to residence and contact. The Tel Aviv Family Court proposed the following two part test: is the change in the situation alleged by the plaintiff parent sufficiently radical as to justify reconsideration by the court, and is it alleged that the child is substantially injured by the change. Only if both conditions are fulfilled *prima facie*, will the court consider the request for change. Otherwise the case will be dismissed without requiring a response from the other parent (*A.E. v. N.E.*, 2016).

However, the approximation rule has been roundly criticized by experts as being inappropriate, unworkable, and inviting manipulation prior to separation. The separation of the parents in and of itself radically changes the lives of the children—two homes instead of one, the need to travel from one to the other, the collapse of the relationship between the parents, and so forth—all these destabilize the child. The approximation rule takes inadequate account of the great changes in the needs of the child and the availability and resources of the parents arising from the separation. The suggestion that retaining pre-separation parenting arrangements, even if this were practicable, which in most cases it is not, would shield the children from instability, is unrealistic (Warshak, 2007, 2011). It would also almost inevitably lead to litigation, which is exhausting for the parents emotionally and financially, over the question of what in fact happened for several months or years prior to breakup.

Sibling relationships are often protective against the worst effects of parental breakup and separation. In a changing family environment attention must be paid by parents, therapists, and courts, to the changing sibling landscape. For example, in a case in the Tel Aviv Family Court, two women who lived together agreed that they would each have a child by the same sperm donor and that the children would be brought up as siblings. When they split up, each wanted to take her child, and the court rightly insisted that the children meet each other frequently to preserve the sibling relationship (*N.S., R.S., S.S. v. K.S.*, 2016).

In many families, the ties of children with their **grandparents** and other members of the **extended family** are strong and may be invaluable in cases where the relations between the parents are disharmonious. Grandparents can provide a refuge from a chaotic home. On the other hand, when the parental relationship breaks down, some grandparents align themselves with their son or daughter, and may even fan the flames of the dispute. The same is true of uncles, aunts, and cousins.

The parents have responsibilities in this area, too. Where a child who has grown up with good and beneficial relationships with members of the extended family, and these relationships remain beneficial despite the breakup of the parental ties, each parent should do all possible to foster good ties with members of the extended family on both sides, on condition that those

persons refrain from words or conduct that may damage parent–child relationships.

It will be clear from the aforementioned that the responsibilities for the welfare of the child are continual, from birth (and even before birth, since the development of the unborn may be affected by stress on the mother) until majority. For this reason the phrase “**parenting time**” is entirely inappropriate. As I point out in Part 1 of this article, a parent does not slip in and out of his responsibilities as a parent according to a timetable of days and hours set by agreement or by the court. As a result, agreements and court orders should be framed in terms that reflect this reality, such as “time with mother” and “time with father.”

The child's involvement

Article 12 of the Convention on the Rights of the Child requires the involvement of the child in decision making, to the extent of his developing abilities. In making decisions, parents have to be aware that a child usually knows what he wants, but is often unable to understand that his needs, in the sense of his long-term welfare, may require the setting of limits and denial or deferral of his immediate demands. If we were to ask our pre-schooler, in the name of children's rights, if he would like to have a painful inoculation by injection, he would probably say no; if this were to be final, we would be exposing him to disease and possible disability or death.

Thus, it is one of the parents' central responsibilities to ask for and to consider the child's expressed wants and opinions and to give them the proper weight, taking into account the age and maturity of the child; the extent to which the view expressed is that of the child and not due to outside influence or coaching; and the forcefulness with which the opinion is expressed (*A.L. v. Z.L.*, 2014).

However, expressing the child's wants and opinions in terms of his rights distorts the balance of the parent–child relationship. Sometimes the tail, especially the adolescent, will use his so-called rights to try to wag the dog, his parents. The parents must not abdicate their responsibilities and rely on the preferences of the child. Here, in particular, the realization that both parents jointly have responsibilities can help them avoid their child or adolescent's manipulation of their separation so as to extract concessions which are not to his benefit: “... but Dad said I could stay out late ...”

Additionally, there are some questions that we do not ask: for example, no one should ask which parent the child prefers to live with, since the question places the child in a position of having to decide a matter that is beyond his competence, not to mention jurisdiction, and may cause the child to feel guilty, that he has rejected one of his parents.

Home, relocation, and abduction

Every child needs a home. It should be obvious that when the parents no longer live together, each has to provide a place where the child can feel comfortable and regard as a home.

However, some parents get bogged down in fighting about the division of their property, or disputing which should be the “principal” residence.

As is the case in regard to the child’s other needs, so in this area the parents’ duty is to decide on appropriate places for the child to live, at such times and under such conditions as are necessary for the child, without interference from considerations of who is the custodial parent. In other words, the child needs two homes, “home with mother” and “home with father.” Unless there is a pressing psychological need, neither home needs to be called the “main” or “principal” home of the child, even if mathematically the child spends more hours per week in one house than in the other.

It is the joint responsibility of the parents to decide on any change in the child’s homes. Furthermore, a parent who is considering moving his home to a new location is under an obligation to consider the ramifications, for the child, of the move. As I wrote in my judgment in *M.A. v. A.A.* (2011):

...fixing the children’s place of residence is a joint duty of the parents, even if they are living apart, and the unilateral decision of one of them to change the children’s place of residence is unlawful unless it was preceded by an application to the court. If the Mother was dissatisfied with the marriage, she could move to wherever she wanted, but she was obliged to apply to the court as regards relocation of the children, before the move and not afterwards (p. 6).

The courts are used to dealing with relocation cases, but only where the parent with whom the child lives most of the time wants to move to a new residence, at a substantial distance from the home of the other parent. Where the move would necessitate changes (usually a reduction) in the physical meetings between the child and the other parent, the court has to balance the various interests. Often, the case is decided, not on the basis of the parents’ obligations to the child, but on the basis of the rights of the parents; on the part of the parent who wants to move, the “right” to autonomy, the “right” to create a new family, or the “right” to improve themselves economically, and on the part of the other parent, the “right” to have frequent meetings with the child.

These so-called rights clash head on. The needs of the child often get lost in the debate over the rights of the parents; the principal need of the child is for good relationships and contact with all members of his family, and any change in arrangements needs to be considered fully.

It is, however, rare for a parent, with whom the child does not live most of the time, to consult with the other parent before moving far away from the child. There are very few decided cases in this area, since the existing custody paradigm is (wrongly, of course) perceived as absolving the non-custodial

parent from any obligation to keep up contact with the child. On the basis of parental responsibilities, as previously set out, it should be inconceivable that a “noncustodial” parent should be able unilaterally to reduce the level of his involvement with the child, by moving to a remote place, just as it should be inconceivable for the child to be unilaterally moved away from his previous home by the “custodial” parent, and thereby to have the level of contact with the other parent reduced. In other words, the parents retain, after separation, the obligation each to maintain good and frequent contact with the child, and enable such contact with the other parent.

While dismissing the idea that custody grants rights to the custodial parents, and framing in terms of duties, is welcome, the fact is that the word “custody” implies the grant of authority and powers to make decisions without consultation and agreement. Where either parent wishes to move to a place where the distance between the child and either parent is greater than that previously agreed or decreed, such as to diminish the extent of contact between the child and either parent, both parents are required to negotiate an agreement, including proper guarantees of continuing contact between the child and the distant parent, to be presented to the court for approval, or to file an application to the court for permission, before the move.

The parental responsibilities paradigm requires a review of the international instruments relating to abduction. Article 5(a) of the Hague Convention on the Civil Aspects of International Child Abduction of 1980 defines custody rights as including “rights relating to the person of the child and in particular the right to determine the child’s place of residence.” From the aforementioned, it is clear that unless a parent expressly waives his authority over the child’s whereabouts (and courts should be wary of approving such a waiver, which amounts to a statement by the parent that he absolves himself of responsibility for the child), both parents are proper applicants for return of a child to his state of habitual residence, regardless of any agreement or award of custody (Marcus, 2014).

Protection

At the most basic level, parents must protect their children from harm. We have already mentioned the adverse effects of separation and conflict between parents, arising from reduced emotional availability and reduced time with the child. This itself can place a child at risk, in the sense of reduced supervision; of particular concern recently is exposure to harmful material in the electronic media: pornography, bullying, sexting, and the like.

Parents have to be aware of the dangers from the different spheres in which the child lives, and the vulnerabilities of each child, which may arise from the child’s personality or from the effects of family stress and breakup; and they must act in concert to prevent harm. In particular, where the child wants to

engage in activity which may put him in harm's way, separated parents must adopt a consistent attitude, lest the child exploit the differences between the parents and thereby endanger himself. However, parents should not deprive the child of his developmental needs, including the need to experiment and make mistakes. They are obliged carefully to consider all relevant factors, including, where the child is sufficiently mature, the child's views. No less important is their obligation not to undermine decisions jointly made.

Each child needs to develop self-reliance and resilience and a sense of responsibility for his own welfare and recognize his duty to take account of the needs of others.

Education

Another of the essential tasks of parenthood is education, in the broadest sense. The parents may, and in some aspects must, for example, according to compulsory education statutes, be assisted by other persons or organizations in the performance of these tasks.

While formal education may be required at certain ages, and the law may require the child to attend kindergarten or school during certain hours on certain days, educating the child is the joint responsibility of the parents starting at birth and ending no earlier than when the child reaches majority. This includes bringing the child up to be a responsible member of society (and a responsible parent when the time comes), and this itself requires identification and development of the child's talents and inclinations.

A parent may decide to change his way of life, by changing his religious beliefs or his level of observance, or a change of sexual orientation, but this must be done in a way which minimizes damage or embarrassment to the child. This requires that the parents be sensitive to the norms of the sector of society in which the children lived and were educated until the separation, and in which they will continue their lives afterward (see, for example, *J v. B (Ultra-Orthodox Judaism: Transgender)*, 2017).

While parents may differ in their belief systems, this does not exempt them from their joint responsibilities to provide structure, consistency, and boundaries, which lead to feelings of safety and security. It is by the setting of limits, and consequences when they are overstepped, that the child learns about self-discipline.

Parents must also together choose the type of formal and informal education for each child; this includes daycare, preschool, youth movements, religious or moral education, and even the books a child reads, the games he plays, his use of social media, and the programs he views on television. In all these areas, the parents should make decisions together, after taking into account the views of the child so far as it is appropriate to do so. Here, too, parents' autonomy must be respected, and the state should intervene in

the content of the education only if the parents' choice falls below a standard essential to good functioning of society, as fixed by legislation.

While there may be differences in parenting style, and different rules and religious practices may apply in different settings (mom's house, dad's house, granny's house, preschool, etc.) children are usually capable of adjusting to different contexts. Such differences must not be made an excuse for one parent to criticize or express contempt for what happens in any of the contexts in which he agreed that the child should spend time, or to undermine jointly made decisions about educational issues. In an appropriate case, it is the responsibility of the parent who has reservations about the parenting style of the other to discuss these matters with the other parent, and if necessary apply to the agreed decisor or to the court for a determination based on the welfare of the child, including consideration, so far as appropriate, of the child's wishes. Here again, neither parent may undermine a decision, whether arrived at by agreement or by judicial order.

By requiring that parents discuss matters relating to their children in a civilized fashion, children learn that there is a way of deciding issues that is nonconfrontational. This is an educational responsibility of the parents of the highest importance in and of itself. Additionally, where the parents insist on conducting adversarial litigation, associated with neglect of the needs of the children and alienation, the court will use its powers under child protection legislation to have the children declared to be at risk and removed to the care of the welfare authorities. In such a case, where the parents stated that the declaration that the children were in need of protection would label the children, the Family Court in Tiberias (Israel), made it clear that it was the parents, and not the children, who were being labelled (*Social Worker under the Youth (Care and Supervision) Law 5720-1960, Social Services Department, Afula v. Anon., Anon: In the matter of the minor children, 2016*).

To be a child

A child needs to be free to behave as a child. Ragavan & Alexandrova (2015) suggest that child well-being should be considered not only as a way station on the way to adulthood, but as having value in and of itself: The child is to be considered as doing well if he develops capacities appropriate to his or her developmental stage that equip the child for successful adulthood, given the child's social ecology, and also if the child engages with the world in child-appropriate ways, such as curiosity and exploration, spontaneity, and emotional security (Raghavan & Alexandrova, 2015).

Once again, it seems that this is to state the obvious, but in the chaotic world of adversarial proceedings between the parents, the childlike aspect of childhood is ignored. A child needs time to play, by himself and with other children, but there are parents who emphasize the formal aspects of education

and regard playing as a waste of time. Parents locked in a dispute over the child may criticize one another if the child's grades are suffering, and blame one another for allowing time for play at the expense of homework, when the child's lack of success at school is in fact due only to the tension and friction between the parents.

Some parents also disregard the need of the child to be a child, where one or both of the parents impose, intentionally or unwittingly, adult, and sometimes parental, roles on the child.

For example, when a parent asks the child to choose between the parents—with whom he wants to live, or with whom he wants to spend the weekend or the holidays—this is adultifying the child by putting him in the position of having to make a decision for which he is ill-equipped. In addition, the child is in an impossible bind, since any decision is bad: if he says he prefers the parent asking, he may feel that he has betrayed the other parent, and if he says he prefers the other parent, he may fear that the parent who asked him may reject him.

Some explain the asking of such a question as respecting the rights of the child, but this exposes another aspect of the damage caused by the use of children's "rights" to describe the parent-child relationship. A parent who asks the child to decide, or who takes no responsibility when the child refuses agreed or court-ordered contact on the grounds that the child has a right to decide, is using the child's rights not to protect the child but as a weapon against the other parent, and depriving the child of what he needs: that decisions which he is unfitted to take should be taken by adults who love him and want the best for him. In a high conflict case where there were binding court orders regarding when the child should stay with the father, both parents left the decision, whether to go to the father, to the child. The Family Court in Nazareth, Israel, said that although it understood the desire of the parents not to act against the wishes of the child, it pointed to three areas in which the parents' attitude was mistaken. First, their attitude placed an intolerable burden on the shoulders of a child, who was required, again and again, to deal with a conflict of loyalties; second, the real desire of the child was unclear, and he was largely motivated by the relationship with his mother; and third, there was a court order, and allowing the child to decide if to comply gave him a message that it is acceptable to breach such orders (*T.A. v. L.A.*, 2014).

The definition of a right, as a claim that can be enforced by legal action, shows how inappropriate rights discourse is in this regard. From infancy until preadolescence, the vast majority of children are unable to say what their so-called rights are, or at least to frame them in a legally persuasive fashion. An adolescent claiming his rights against a parent is placed in an adversarial position, in which he is at loggerheads with those who love him and want his best interests.

There are pathological situations where a parent is so involved with the battle that a child takes over parenting tasks, looking after the needs of siblings, or has to parent his inadequate mother or father. Here also, the child takes on an adult role and is deprived of his childhood.

Health

Parents also have the primary responsibility for their children's health, and must take decisions, together, relating to maintaining health—inoculations and so forth—and for treatment when the child becomes unwell. Of course, in a medical emergency in which there is no time for consultation, the parent who is with the child must make decisions. Any consultation with a therapist or adviser relating to the child needs to be done in the presence of both parents, or at least with the approval of both parents, since any information to be given to a professional regarding the child must be the best available. Both parents need to know about the advice given and agree to carry out any recommendations given by a professional. This is the case not only in pure medical situations.

There may be particular sensitivity regarding taking a child for psychological evaluation, as in some cultures, and particularly adolescent subcultures, a stigma may attach merely because a child was taken for psychological assessment. Therefore, both parents are duty-bound to be involved.

It has been suggested that where the parents disagree regarding any medical issue, the person providing treatment should be especially attentive to the views of the child. However, the doctrine of parental responsibilities requires that the parents be always attentive to the views of the child, and if they cannot agree after having listened to the child, it is manifestly inappropriate for a doctor or nurse to have to decide on the level of reliance to be placed on what a child, whom they may not know, says in a stressful situation. This is a job for the court, which has clear criteria and the procedures and experience necessary to make a decision (Niv-Yagoda & Katznelson, 2011).

Here again, giving one parent the status of being “custodial” may mislead both parents into believing that that parent alone is to make medical decisions and that he need not report to the other parent; the noncustodial parent may think he is relieved of involvement precisely at the time that the child needs him to look after him. In both of these situations, the child is doubly endangered; two heads are better than one in coming to medical decisions, and division of the task of looking after a sick child gives each parent the opportunity to rest and refresh his strength.

Economic responsibilities

No less obvious than the parents' obligations in regard to love and affection, welfare, health, education, and play is their duty to provide the child's physical

day-to-day needs. The child needs a roof over his head, food, clothing, footwear, toys, leisure activities, and the like.

When the parents live separately, each has to make sure that the child is in suitable accommodation and has suitable nutrition, and clothing, among others. These needs, like those previously mentioned, impose an economic obligation on each parent, according to the laws of the child's place of residence, to provide for the child.

In the same way that parents who live together make their arrangements for the financial upkeep of the household together, by express agreement as to budget and what use shall be made of the parents' resources, capital, and income, or by tacit adoption of whatever arrangements seem necessary, so they are obliged to come to such arrangements when they separate.

The use of custody and visitation as the criterion for fixing the level of child support distorts the process by which decisions are reached regarding the welfare of the child, since any negotiations regarding custody and visitation take place in the shadow of purely financial considerations. For example, the mother has an incentive to deny the father extensive time with the children since the father will claim that he is supporting the children at these times and that the mother should receive lower child support payments. Indeed, in many cases the father will demand joint custody, not because he thinks that the welfare of the children requires it, but only because he perceives that this will lower the financial burden on him. Here again, the needs of the child are sacrificed on the altar of the parent's self-absorption.

While assessing the economic cost of time spent with a child is fraught with difficulty, there can be no doubt that there is an economic cost, where the parent concerned could be spending the time earning money, and there are expenses associated with travelling to see the child: the child's financial needs, for food, clothing, housing, medical insurance, and use of utilities, and so forth, are identical, whether he lives with both parents, or spends all his time with one parent, or his time is split between separated parents. He drinks the same quantity of water, needs the same amount of heating or air conditioning, and pays the same medical expenses. The discussion has, therefore, to be about the time spent with each parent, according to the child's psychological, social, educational, and other needs. Only when this is decided will the parents decide what payments need to be made, if any, by one parent to the other, based on the appropriate laws. There are cases where the children spend most of their time with the father, and the mother is ordered to pay child support to the father, even where both parents have income. This represents a proper way to let the financial responsibilities be determined, **after** deciding what are the best arrangements for the time spent by the children with each parent, in the light of the functional reality—who bears the direct expenses in a given fact situation—and assessing the liability of the other parent to contribute.

The economic responsibilities arising out of the separation of the parents should not be regarded as separate from the other parental responsibilities. Each jurisdiction has its own laws regulating the different parameters for assessing the costs of parental tasks and the criteria for division of these costs between the parents, and this is not the place to discuss them.

The separation of financial responsibilities from the other responsibilities of parents is unsupportable in principle, and for this reason an agreement relating only to some of the responsibilities, such as the time spent with each parent, without regard for the economic ramifications, is equally unsupportable. This is clearly the case where one parent wishes to relocate the children to a place far from the residence of the other parent, where travel expenses and travel time need to be part of the arrangement; but even where the parents live in close proximity, there is a need for clear arrangements as to who is responsible for paying, for example, for school fees, school trips, bus fares, school books, and the like, and how much can be recovered from the other parent as his contribution.

Changing circumstances

The needs of children change over time, and the capacity of the parents to comply with their responsibilities may also change. For this reason, any arrangement, by agreement or judicial decision, must be open to adjustment in the event of a substantial change of circumstances (with the power to impose financial sanctions against a parent who files unnecessary applications). It may be appropriate to provide for a mandatory review every three years, granting the parents the power to agree from time to time that a review is unnecessary and to defer the mandatory review.

Children in need of care and protection: Reallocating parental responsibilities

As stated, the state is under an obligation to refrain from interfering in the autonomy of the parents to care for their children. However, where the welfare agencies of the state become aware that neither parent has the capacity to carry out the parenting tasks, and that as a result the child is being abused or neglected, they have a duty to intervene.

The welfare authorities are empowered to apply to the court for temporary or permanent orders, including for the removal of the child to a foster home or to an institution, or for the child to receive treatment or therapy, and in an extreme case, for termination of the relationship between the biological parents and the child by termination or suspension of guardianship or by an order of adoption. It is in this area also that legal systems should view parent–child relations in terms of parental responsibilities and obligations.

A parent who insists that he has rights will be confronted with his failure to care for his child as required by the law and as needed by the child. As courts in many jurisdictions have said, a parent cannot claim to be the natural guardian of his child if he does not act naturally.

The court in England and Wales is similarly empowered to terminate parental responsibility where a parent has acted with violence and abuse and been convicted and sentenced to imprisonment for such offences in the family, thereby granting to the other parent full powers to make all decisions about the child (see, for example, *In the matter of A (a child) and B (a child), F v. M*, 2016). However, the intervention by the state and its agencies must be limited to supplying those of the child's needs that the parents are not at a given time capable of supplying: the autonomy of the parents to carry out their parental responsibilities must be preserved to the extent possible.

As has been previously described, discussions between parents arising from a family crisis must be framed, not as a fight or dispute, but as a quest for allocation of parental responsibilities between parents in the best interests of the child, so as to avoid or at least minimize contention. Likewise, an application by the state in a matter of the care of a child should be framed, not as a hostile demand to take the child away from the parents, but as an application to allocate to others—to a member of the extended family of the children, a foster family, a children's home, and so forth—only those parental tasks which the parents are, at a particular time, incapable of performing. An application sensitively so framed will be far less threatening than an application to remove the child into the care of the anonymous local authority, and to deprive the parents of any involvement in decision making. Making an application in the manner suggested will not preclude planning for a permanent solution for the child; on the contrary, it has better prospects of encouraging the parents to cooperate with the welfare agencies, and to work for their own rehabilitation and the return of the child, rather than abandoning hope and relying on the authorities to look after him. The child must be given an opportunity to express his views, with appropriate safeguards, in proceedings of this type, no less than in private law proceedings (those which only involve the child and his parents).

The parents are under a duty toward their children, to do their best to provide all the child's needs and to make every effort to show that they are capable of doing so; but also to cooperate with the welfare authorities when orders to do so have been lawfully issued. For example, the Central District Court in Israel, in an appeal from the decision of the Juvenile Court, in *Anon. v. Youth Law Social Worker Eynav Nagar* (2014) affirmed the power of the Juvenile Court to order that the parents undergo psychological assessment, in the context of establishing whether the child concerned is in need of protection and intervention.

Assessing capacity to carry out parental responsibilities

In the present climate, driven by language of rights, custody, and so forth, huge resources are spent by parents and the state on obtaining expert reports on the question of who is to be the custodial parent. In proceedings between parents, as also in child protection cases, even though the end product requested may be called a child custody report or a parenting plan evaluation, the question is often framed in terms of parenting capacity: does this or that parent have the capacity to be a parent or not?

It will be clear from this article that where the issues are framed in terms of parental responsibilities, the investigation needed is not to show whether one parent or the other has perfect general parenting capacity. This is true in cases of all kinds, both those between parents and those between welfare agencies and the parents. In cases where there is no alternative to requesting an evaluation from a welfare officer or expert, the court should order that the report should concentrate not on parenting capacity in general, or on which parent is more deserving of being the custodial or residential parent, but on the needs of each child and on the abilities and limitations of each parent in respect of each of the parenting tasks. These include the parent's ability and willingness to cooperate with the other parent, and with the welfare agencies where necessary, despite the changes in the arrangements for the child. This will save the parents and the state from long-running and expensive disputes, which often focus on the qualifications of the expert and the methods he used in preparing his opinion more than on the needs of the child.

What can be done

Education

Reframing parent-child relations in terms of responsibilities will not by itself change the way parents see their status vis-a-vis the child and each other, unless an effort is made to educate the general public, lawyers, mental health professionals, and others professionally involved. Each jurisdiction should set up educational programming, which should include the concept of parental responsibilities in relationship classes in high school, where students are exposed to the expectations of society in several areas. Professional training and in-service seminars should direct practitioners to the paradigm as the appropriate way to advise their clients and patients.

Alternative dispute resolution

In addition, reform is required in the way proceedings in court are commenced.

Every effort should be devoted to encouraging the parents to settle their disputes without recourse to court proceedings. The Australian model, of

Family Relationship Centres (FRCs), from whom a certificate of attendance is a prerequisite for filing proceedings (Family Law Act 1975 s.60I), has had remarkably positive results (Parkinson, 2013). The mission statement of these FRCs is: strengthening family relationships; helping families stay together; assisting families through separation. Collaborative Divorce techniques hold out similar hopes for reduction of litigation, which will reduce tensions and damage to children.

Investment in order to save

The state is under a duty to balance its budget, and in particular to allocate resources in a way that will save expenditure in the future. Investment of adequate resources in education for the new paradigm, and in provision of services for handling parental separation arrangements before they arrive at court, will save far more in terms of court resources.

Procedural changes

However, it is not to be assumed that all cases can be resolved without litigation; the personalities of the parents or one of them, or other factors, may make litigation inevitable. However, especially in these cases, there is great importance to the way in which documents presented to the court are framed.

The Israel Law for the Settlement of Litigation in Family Disputes (Temporary Provision), passed in 2014 and which came into force in September 2016, provides an example of how court procedures can be useful in trying to defuse explosive situations. The originating document filed in court will consist of an application for Dispute Resolution and will not contain allegations of any kind. It will contain the details of how the parties came to be bearers of parental responsibilities for each child, and the fact that they are living separately or that one of them intends to live separately.

The parties will be described, not in terms of their roles before the court: Plaintiff, Applicant, Petitioner, Defendant, Respondent, but in terms of their relationship to the child, whose name should appear at the head of the document instituting proceedings. The word “against” or “v.,” should not appear.

Thus, the originating document filed in court will be headed thus:

“In the matter of
A.B., C.B., D.B (all minors)
And in the matter of
X.B., parent
And
Y.B., parent.”

The parent presenting the application shall attach a draft of his plan for sharing parental responsibilities for each child. This part of the document shall also be devoid of allegations. The other parent will be required to respond, again without allegations, with his draft of the parental responsibilities sharing plan.

The parties will then be referred to the court social worker, who shall discuss matters with them and shall also be empowered to speak to the children about the situation, and shall report to the court, within a specified time, as to the prospects of reaching agreement; and if there is a full agreement, or even an agreement as to some of the aspects of parental responsibilities, the matter will be referred to a judge for approval. If there is no agreement, the judge will conduct a preliminary hearing, and only if he concludes that it is necessary, will the parties be permitted to present their allegations and evidence, restricted to those issues which are ordered by the court. This procedure is designed to avoid the present procedures, which require the raising of every possible allegation at the very outset of proceedings, including matters which may be irrelevant to the determination of the allocation of parental responsibilities, thereby exacerbating an already stressful situation and lengthening the proceedings. Procedural rules should be amended so as to make it possible for court systems to establish, very soon after the institution of proceedings, which are the really difficult issues, and to allocate proper resources for prompt adjudication.

Conclusions

Best interests

As I have shown, the best interests of the child are ill-served by the widespread use of words such as rights, custody, visitation, parenting time, and the like. It seems that the international community is aware of this. In its General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), UN Committee on the Rights of the Children was, it seems, aware of the inadequacy of a provision which grants a right without imposing an obligation and used terminology of obligation:

“13. Each State party must respect and implement the right of the child to have his or her best interests assessed and taken as a primary consideration, and is under the **obligation** to take all necessary, deliberate and concrete measures for the full implementation of this right.

14. Article 3, paragraph 1, establishes a framework with three different types of **obligations** for States parties:

(a) The **obligation** to ensure that the child’s best interests are *appropriately integrated and consistently applied* in every action taken by a public institution, especially in all implementation measures, administrative and judicial proceedings which directly or indirectly impact on children;

(b) The **obligation** to ensure that all judicial and administrative decisions as well as policies and legislation concerning children demonstrate that the child's best interests have been a primary consideration. This includes describing how the best interests have been examined and assessed, and what weight has been ascribed to them in the decision... (p. 3).

36. The best interests of a child shall be a primary consideration in the adoption of all measures of implementation. The words "shall be" place a strong legal obligation on States and mean that States may not exercise discretion as to whether children's best interests are to be assessed and ascribed the proper weight as a primary consideration in any action undertaken ... (p. 10)(bold emphases not in the original.).

Benefits of the paradigm of parental responsibilities

Adoption of the paradigm of parental responsibilities, which includes abandoning concepts such as custody and the discourse of rights, encouragement of dispute resolution without litigation and procedural changes where court proceedings are inevitable, will make it possible to bring about wide-ranging improvements for the benefit of children. By way of educating for changes in accepted attitudes, and by placing appropriate services at the disposal of families undergoing breakdown, it is possible to prevent, or at least reduce, their children's suffering. This will apply also when welfare services seek to change a child's lifestyle where neglect or abuse is alleged.

Legislation and the jurisdiction of the court

Of course, each jurisdiction (I include the framers of international instruments, as well as national and state legislatures) will need to consider and revise the wording required by the move to parental responsibilities. Experience has shown however that even without legislative changes, those involved with dealing with parental separation (including guidance counselors, mediators, social workers, mental health professionals, parental coordinators, lawyers, and judges) can often shift the situation from one of conflict and alienation to one of cooperation and collaboration. For this to happen, the court dealing with these matters should have broad enough jurisdiction to involve any relevant adult in proceedings, with a view to imposing responsibilities on such an adult if the child's needs require it.

However, some courts may be reluctant to go beyond a strict statutory framework despite clear evidence that the welfare of a child may require this. See, for example, *In re Parentage of Scarlett Z.-D.* (2015) where the Illinois Supreme Court refused an appeal against the dismissal of the claim of Jim, the appellee, for custody and visitation despite the fact that "Maria, Jim, and Scarlett lived together as an intact family unit as if they were bound

legally.” Maria and Jim gave Scarlett the hyphenated form of their last names. Jim was the “father figure” to Scarlett, who referred to Jim as “daddy.” Jim’s name appears in Scarlett’s school records as Scarlett’s father. Jim paid all family expenses and provided economic support for Scarlett ...” The court found that the relevant statute gave no standing to a nonbiological father and the court was unwilling to base itself on functional parent theories, and in the absence of standing, the best interests test was not invoked.

On the other hand, *In the Matter of Brooke S.B. v. Elizabeth A.C.C.* (2016) the Court of Appeals for New York, overruled a previous line of authority (*Matter of Alison D. v. Virginia M.*, 1991) and found that where there was a preconception agreement that the partner of the birth mother should play a full part in bringing up the child, that partner will have standing to seek custody and similar relief when the couple ceased to live together. The court was unwilling, nevertheless, to adopt a functional test “that will apply in determining standing as a parent for all non-biological, non-adoptive, non-marital ‘parents’ who are raising children.”

Financial savings to the state budget and the parents

Adoption of the paradigm of parental responsibilities can reduce costs to the state. Litigation can be reduced to a minimum, by educating the public that parents and others involved with the upbringing of children have responsibilities, and that on separation of parents, they are required to discuss, in depth, the specific needs of each child and decide how these needs are going to be met, and by whom. This will save parents and children from the dangers and pitfalls of litigation, and will lead to savings of court time, and reduce substantially the number of people who need to be helped by the welfare authorities to overcome the damage caused by involvement in adversarial court proceedings. The state and its citizens will benefit greatly from savings to the state budget.

The needs of the child

Most importantly, the new paradigm emphasizes children’s needs, and the responsibilities of parents and other adults and of the welfare services to act in the best interests of the child, and shifts the method of reaching decisions from that of confrontation to that of discussion and agreement. Millions of children, each year around the world, are through no fault of their own subjected to emotional harm because their parents have no satisfactory tools to resolve their disputes. What they have is a confrontational, competition-based mindset, because legal systems use language that is not adapted to family breakup. The paradigm of parental responsibilities gives parents, courts, mental health professionals, and lawyers, the appropriate vocabulary,

and thereby the attitudes needed to enable them to deal more kindly with these children.

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Ethical standards and informed consent

No part of this article includes reference to any human subjects.

Author note

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