



## The Government, Divorce, and the War on Fatherhood

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### *Taken into Custody: The War against Fatherhood, Marriage, and the Family*

Stephen Baskerville, Cumberland House, 352 pages, \$24.95

**For whatever reason**, social conservatives focus considerable political effort on abortion, gay rights, and obscenity, but pay scant attention to divorce. Perhaps they think that ship has sailed for good, whereas other battles still offer winnable stakes. Perhaps too few look at our "family courts" and see a culture war; or perhaps too many lack the conviction to fight it. And when conservatives *do* target divorce, rather than lobby for legal reform of the "no-fault" divorce system, or changes in the way courts award custody or child support, they have preferred to employ the tools of ministry, treating divorce primarily as a moral problem rather than a political one; its attendant social evils as a consequence of sin, not of bad policy.

This is a grave mistake, says Stephen Baskerville, professor of government at Patrick Henry College and president of the American Coalition for Fathers and Children. In his startling new book, *Taken into Custody: The War Against Fathers, Marriage, and the Family*, he asserts not only that reforming America's divorce paradigm deserves a far higher priority among conservative culture warriors, but that our divorce courts today are agents of radical sexual ideology, occasions of shameless graft, and instruments for the expansion of governmental power at the expense of Constitutional rights.

As unique as it is disturbing, *Taken into Custody* strikes notes from all over the conservative/libertarian spectrum to compose a sort of hybrid thesis: that big government and anti-father feminism have teamed up to promote divorce, tear apart families, pauperize and criminalize fathers, and swell the power of the state.

The marriage contract today is a legal anomaly, the author muses, in that our government directs nearly all its efforts and resources toward *dissolving* rather than -- as with other contracts -- enforcing it. In what he calls the "totalitarian regime of involuntary divorce," unfaithful parties are not punished, and faithful ones not rewarded. In a perverse twist, it is the faithful party -- the one seeking to hold the marriage together -- on whom the guilt and suspicion are cast.

With the advent of no-fault divorce (before which divorces required cause, and fault could be assigned proportionately), "the fault that was ostensibly thrown out the front door of divorce proceedings re-entered through the back." Working from the "therapeutic" (read: morally relativistic) premise that both parties must be equally to blame -- which is to say, not at all to blame -- for a marriage's failure, divorce courts begin with an "automatic outcome" and then set out to find or manufacture evidence to support it.

How is that evidence obtained? Via "extensive and intrusive governmental instruments whose sole purpose is intervention in families." Having quit the marriage-enforcement business, government has turned the full weight of its resources and coercive powers to the divorce-enforcement business.

**The main area in which government brings to bear** those resources, and the red thread of Baskerville's book, is in assigning custody of children. With two-thirds of divorces initiated by women -- thereby immediately casting the man as the "defendant" -- and with courts overwhelmingly biased toward mothers already (in a paradoxical inversion of feminist doctrine, women are held both to be and not to be more naturally suited to nurturing and child-rearing), in practice the custody process typically amounts to a "power grab" by which fathers are forcibly separated from their children. The children, for whose benefit the process ostensibly exists, are then used as leverage by the prying state and as trophies by the custodial mother.

The fathers may have committed no crime; they may in fact be more dedicated than the mother to the marital stability that's in their kids' best interest, but no matter. The mother is rewarded for courageously having taken the "initiative" in the divorce -- for having invited, that is, the power of the state to arbitrate in the most private areas of their family life. Maneuvered by skilled lawyers, abetted by social-science "experts" steeped in anti-father ideology and myths, and followed by media more interested in soap-opera storylines than justice, she can by the very hint of a suggestion of an accusation -- of physical or sexual abuse, for example, or mental or emotional cruelty -- rob a man of his marriage, his children, and his livelihood.

This is not the only disquieting contention Baskerville makes, but it is the central one: that right under our noses, massive systematic injustice is being visited upon fathers, threatening the very fundamentals of family, society, and democracy. This thesis seems at first incredible, and initially I couldn't decide whether it's because the author doesn't convince, or because I didn't *want* to be convinced.

It's not a reviewer's placeto connect every dot of an author's argument -- especially for a book that, despite its modest size, is richly presented,

containing nearly a thousand end notes and not a single uneconomical sentence. But I do want to touch on a few satellite points that attend Baskerville's thesis, by way of giving a well-rounded representation of it.

**This ongoing travesty is rooted** in two main causes, which build upon each other: a big-bucks "entitlement industry" that grows ever-larger and more voracious, and the influence of radical feminist ideas and power.

According to Baskerville, the business of divorce is part of a bloated bureaucracy, a \$100 billion industry in which judges "dispense patronage" to psychological "experts," lawyers feed on the bank accounts of divorcing couples, social workers wet their beaks in welfare cash, and courts send out bounty hunters to bleed dry blameless but unlucky dads. And, naturally, the more each party prospers, the greater the demand for even bigger money: more divorces requiring more expert witnesses to demonize more fathers, and more intrusive measures to coerce their behaviors and attach their wages; more taxpayer money to fund more programs for counseling and sheltering more unhappy wives (in what he calls "one-stop divorce shops"); more state agencies (the "child protection racket") to insert governmental authority ever more deeply into the sacrosanct privacy of the family.

So follow the money we certainly can. But Baskerville believes that we might never have gotten to this point without the influence of an anti-father strain of feminism, representing a "degeneration of feminist idealism" that first aims to make political what is personal (by casting conflict between the sexes in the historical context of political oppression and the movement for liberation) and, secondly, is motivated by "a specific animus against men and marriage."

True, as regards divorce and child custody, there is some dissension within radical feminist ranks. Some would prefer to see the man left with the children, burdened with domestic chores, while the woman goes off free to pursue whatever empowers her. Others likewise fear that winning the battle for power in the household only sets back the fight for power in society. But the majority has happily accepted and run with what seems to be a paradox: on the one hand, rejecting outright any notion that a woman "belongs" at home with her children, but in divorce court asserting that children belong at home with their mother. Similarly, one notes the paradox in feminists' claimed desire to have more domestically "involved" fathers, and their sense of entitlement to be the "center of their kids' universes."

Why do they smooth over the contradiction? Most of all, power, says Baskerville. By scooping up the children and the money, divorcées scores a tag-team victory -- along with the courts and their experts, trained in feminist therapeutic precepts -- over men. The current divorce paradigm also dovetails nicely, he says, with other planks in their ideological platform:

- Deep-rooted antagonism toward men and fatherhood. As Dale O'Leary and others have shown, anger and resentment toward their own fathers is a common thread among lesbians and radical feminists.
- Long-term replacement of the family with a system of government caretakers. "It takes a village," after all.
- Conscription of children as fellow soldiers in the battle against patriarchal tradition. Hence the modern movement naming "children's rights" as a corollary to women's rights.

- The separation of the political interests of men and women. This is essential to preserving the model of ongoing political conflict between the sexes.

**The larger society allows this to occur**, and politicians enable it, Baskerville says, because of a carefully constructed set of myths that steers our sympathies toward the mother and casts suspicion on the dad. "He must have done something," we say to ourselves. We all know the stereotypical stories of the abusive or "deadbeat" dad.

Baskerville dismisses the bulk of these notions as pure myth, asserting that most women seek divorces for reasons related to emotional fulfillment, not physical abuse, either of herself or their children. (He cites statistics here showing, among other things, that children are most likely to be abused by a single mother or by her live-in boyfriend; tragically, then, courts are in fact removing kids from their natural protectors and abetting the real predators.) There already exist laws to punish violent criminals, but these laws -- and the due process that goes with them -- are being ignored in favor of the secretive, unjust, and cruelly punitive family courts, which work with politicians, agenda-driven experts, and the media to "foment hysteria" about a non-existent epidemic of child and spousal abuse, and then prosecute fathers -- not with criminal statutes but restraining orders, onerous child support, and character assassination.

Similarly, the divorce industry enjoys the full cooperation of politicians and the media in stalking "deadbeat dads." But he too is a "mythical creature," Baskerville claims, "created by those paid to pursue him." The "national demonology" of the deadbeat is a useful fable, providing spotlight-seeking pols with a "risk-free target" for tough-sounding talk and filling state coffers with federal money (after all, they need programs to track down and punish all those wicked dads, and propaganda campaigns to educate the public about their wickedness). In other words, they get a cut of the booty -- an "entitlement coerced from the involuntarily divorced."

Baskerville pointedly concedes that there must be some true "deadbeats," just as there are some true abusers. But in both cases the numbers are small. Most dads pay up, and those who can't have a good reason (he notes that they tend to be the type of unfortunate fellows whom the government would ordinarily be spending money to *help*, not impoverish -- alcoholics and drug addicts, the homeless and mentally ill, and those with minimal education and job skills). And millions of others eke out a living in the fringes: fighting to stay out of jail while they watch their reputations and credit ratings crater.

The great irony here, Baskerville says, is that "child support" is advertised as a way to make fathers "be responsible" for their children, yet it is coerced from them only after they have been forbidden by the state to exercise that responsibility in the ordinary way: by being *fathers* -- protecting and providing for their sons and daughters on a daily basis in a common household. Or as Baskerville puts it, child support is about "making fathers finance the filching of their kids."

In addition to lamenting their inattention to divorce reform, Baskerville specially indicts social conservatives for unwittingly perpetuating such myths. Making the "sentimental assumption" that male promiscuity is the nub of all fault, fatherhood groups and religious-right leaders focus the large

part of their efforts on exhorting fathers to live up to their spousal and parental responsibilities -- ignoring the plight of fathers whom the courts have forbidden to do just that, and implicitly reinforcing the common misconception that most divorce stems from the husband's sins, and most fatherlessness from paternal cowardice.

Small wonder, then, that many feminist groups, "cynically invoking the need for fathers," lend their support to organizations and initiatives that on the surface promote paternal involvement, but which in reality only serve the system that keeps dads from their kids. Baskerville calculates, for example, that government and faith-based "fatherhood" programs actually direct a majority of their resources toward the child-support collection industry. They don't want his presence; they just want his money.

**Baskerville winds up his book** -- and locates his thesis -- deep in the heart of a quasi-totalitarian state, by offering an eccentric but thought-provoking take on the now-settled fact that children of divorce exhibit more problem behaviors than those from intact families:

The family becomes in effect government-occupied territory. The children experience family life not as a nursery of cooperation, compromise, trust and forgiveness. Instead they receive a firsthand lesson in tyranny. Backed by the courts, police, and jails, the custodial parent now "calls the shots" alone -- issuing orders and instructions to the non-custodial parent, undermining his authority with the children, dictating the terms of his access to them, talking about him contemptuously and condescendingly . . . all with the blessing and backing of the government.

Having thus become "wards of a police state," he says, forced to live in and be formed by an environment of gross injustice, how can children *not* develop a "chronic disrespect for authority"?

In the occupied family of forced divorce, parental and political authority are unnaturally intertwined, a process that results in both kinds of authority being simultaneously abused and weakened. Discipline and civility are the first casualties, since it is difficult to teach children to say "please" and "thank you" when we simply issue orders (or court orders) to Dad. . . .

This peaks in adolescence, when natural rebelliousness coincides with the realization of how one or both parents have abused their authority by setting their own desires above the needs of their children. . . . It is this adversarial relationship imposed on the children towards virtually every form of authority that I believe best accounts for the horrifying statistics on juvenile emotional and social problems that correlate more strongly with divorce and single-parent households than any other factor.

Baskerville stresses that change won't come through the efforts of government or non-profits, but by militant popular activism: nothing less than a "rebellion" that radically re-establishes the family as the primary *rival* to government power, not a building block for it. Only then can we hope to achieve particular strategic goals: legal limits on no-fault divorce, based on a judicial re-commitment to enforcing the marital contract rather

than shredding it; a preference for awarding joint custody, which would both "dismantle" the custody/child-support industry and likely reduce the divorce rate (since it removes the motive for one spouse to wield custody as an instrument of power); and greater legal protection for parents' rights, which, Baskerville surmises, might require nothing less than a Constitutional amendment.

That last prescription underscores the gravity and urgency that permeate *Taken into Custody*. Indeed, it sometimes crosses the line into stridency, such as in the author's comparisons of family courts to Nazis, Stalin, the Eastern Bloc, the Weimar Republic; his references to Orwell, Marxism, "human sacrifice," and so forth. But Baskerville himself seems aware of the gap between his claims and popular understanding -- even the understanding of pro-family, limited-government conservatives who are usually sharp about such things. He realizes that the evidence he has marshaled is either flat "mistaken," or else it "amounts to a reign of terror."

If Baskerville is mistaken, then he may just need a little time off, somewhere out of the sun. But if he's correct -- and his book compels -- then we have been blithely sitting on the sidelines of a critical civil rights struggle; perhaps the most critical of all.

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