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Closing the Gap Between Courts and Social Agencies — The Judge's Perspective*

*Judge Francois J. Godbout***

Most of us tend to see the same face of society, since we usually revolve in the same, comfortable social circles. As a Youth Court judge, I am made privy to a hidden face of society, a face that must be unveiled before we can understand the relationship of social agencies and the Courts and to hopefully close the gap between them.

I spent many days of the first years of my life as a Youth Court judge in the courtroom, presiding over some 1300 inquiries concerning many children—from new born babies to adolescents under 18 years of age—and their families. Some 90% of the children brought before me came from single parent families. Even more disturbing, 99% of those 90% were the sole responsibility of their mother. This statistic should cause men to reflect on the words of Jean-Jacques Rousseau, the 18th century French moralist: “Who is unable to fulfill father duties has no right to become one.” However, coming from someone who had five children himself and promptly surrendered them to the fosterage of an institution, one must wonder whether Rousseau really meant what he wrote. By any standard, fathers are a rare species for those children in want of protection.

Why is it that men have deserted their parental responsibility and women have not? Marie d'Agoult, the extravagant 19th century countess and Richard Wagner's mother-in-law once wrote: “[L]ove for babies, is not an intelligent sentiment, but in fact a blind instinct in which the lowest beast is superior to woman.” Although expressed in this deprecating mode, there is such a thing as a maternal instinct, the inborn attachment of a woman for her child, strong enough to endure “the slings and arrows of outrageous fortune,” unkind as they may be.

Fatherhood is made of a different stuff. It has a much less innate

* Adapted from a speech given by Judge Godbout on June 26, 1991.

** Judge Godbout was named Judge of the Court of Quebec, Youth Court (Chambre de la Jeunesse) Montreal in 1987. Judge Godbout had a distinguished career in private practice for a number of years, during which he also served as legal counsel to the organizing committee of the Olympic Games of 1976.

component, but rather must be acquired and developed through the regular if not constant practice of specific duties. Even in our emancipated culture, the father's role as a purveyor for the family still stands at the top of the list. Far be it for me to reduce the father's role to that of a simple materialistic function. Men's hearts and minds are equally tuned to the task of raising children. However, being a purveyor is a necessary attribute to the paternal concept, without which man may be stripped of his dignity. He can then very easily slide down to the much less admirable male instinct of becoming a simple progenitor.

These observations on the subject rely less on Marie d'Agoult's pen and more on the reality that confronts me daily in my work. Of the few fathers who do come to court to testify, almost all are on social welfare. Exceptionally, one will state his occupation as being unemployed, in other words still collecting unemployment insurance. Those who hold a job are the rarest of them all.

Thus, the evidence is overwhelming that men's general resignation from their parental responsibilities, in those situations submitted to our Court, is directly linked with their economic status. As our poet Felix Leclerc put it: "[T]he surest way to kill a man is to take away his employment." They soon lose their dignity, their self-esteem, the esteem of their spouses, their friends, and, eventually, their own children. Idle, they become prone to a degradation process that can take many forms. Sooner than later, they will leave their family, a departure that by then is seen more like a relief.

Mothers are not subject to similar deterioration and their presence beside their children is generally not affected by economic adversity, except for quality concerns.

Now that the youth protection system in this province is undergoing a review, and thoughts are being expressed that favor social interventions in the natural milieu rather than institutionalization, focus must be set on the sad reality of absent fathers. Social intervention could be designed to deal with it and assist in looking for a solution.

A social follow-up ignorant of this dimension is practically illusive. Section 2.2 of the Youth Protection Act reads: "[T]he primary responsibility for providing care, maintenance and education for a child and for supervising him rests with the parents." The judge is to use this principle when asked to apply the law to a situation. In view of the deterioration of the family cell in our society, this principle could also be made a top priority in social agen-

cies' interventions. It would most ably serve the prevention principle expressed in Section 2.3 of the Act: "Any intervention between a child and his parents by a person entrusted by this Act with responsibilities regarding the child must be aimed at preventing situations that give rise to such interventions and at promoting the involvement of the Community."

I am well aware that the review of the correlation between father defections and their economic distress is not left to social agencies alone. However, this situation must be brought to the fore and social agencies could best do that job.

Let us now examine those 1300 children who were brought before me and determine what brought them to Court. For the vast majority, they suffered from what one section of the Act, section 28, paragraph (h), decently refers to as "serious behavioral disturbances." What has been a complete discovery to me, having been a single child and father of two boys, is that while the causes for those disturbances are the same — lack of cohesion in the exercise of parental authority, broken families, neglect, physical or sexual abuse — their visible effects or, to use the psychologists' and social workers' vocabulary, their "acting out" differs greatly dependent upon their sex.

Boys plagued with those miseries will react with visible hostility easily reaching the stage of physical violence and acts of delinquency such as vandalism, theft, robbery, assaults, and the like. They will tend to reach outside the family cell looking to fulfill their need for belonging and, even more so, to find a substitute for secure structures of which they have been deprived. They then readily join in with gangs where they can share their distress, at the expense of their own identity.

There, they will receive values that their instinct is demanding, though contrary to traditional values. Impulse will replace self-control, and individual courage becomes cowardice when opposing the collective will. In the end, and this is the paradox of our North American way of life, the child is being fed into a society of rebels by the very people who condemn such rebellion.

Surprisingly, in spite of their boundless energy, practically none of them are attracted to sport. Exercise, which is so useful to channel this growing physical force, is unknown to them. It is therefore applied to violence, which, at that stage of life, is a close cousin. Jean Giraudoux, a French author who was also a distinguished sportsman, defined sport as the art by which man frees himself from his own evil. With all due respect, I believe that social agen-

cies charged with boys' rehabilitation could be made more aware of this form of therapy, particularly in the reception centers. While there are some indoor programs, there exist few outdoor sport installations or activities from which adolescents sheltered in those institutions can benefit.

With girls, behavioral disturbances show a much different face. Contrary to their male counterparts, few are brought to Court charged with an offense. They usually show up through the protection system. Their situation seems even more fragile, requiring a more complex treatment.

While some of them may show a form of violence and impulse, the vast majority react by withdrawing from their milieu as if to keep their distress to themselves, at all cost. They therefore cut all communication, isolated to the extent of retiring within themselves. Added to this are suicidal ideas, often leading to attempts as a way of sending a distress signal. They frequently run away from home. In dire need for affection and understanding, they become an easy prey for older men who abuse them in any manner they please, including drugs, nude dancing, and prostitution.

The damage here is tragic for it reaches deep into the very moral fiber of the female adolescent. Her self-confidence is practically destroyed. Thus, it cannot be restored overnight. It is a very long process that requires very competent expertise. The educators charged with this mission must be among the finest of human beings. Therefore, they can never be paid enough for what they do.

In summary, sitting on the bench, watching all those boys and girls go by, I cannot escape from concluding that the root of their problems lies in a defective or broken family cell. Our permissive society, with its permanent search for happiness, wealth, fame, or pleasure, appeals to individualistic goals. It is less suited to promote stability and harmony in the family cell. Modern science and technology cannot come up with an alternative. There is still only one way to properly raise children: the old-fashioned way. They must be provided with love and structure. Therefore, means to consolidate and strengthen the family unit must be made the top priority of our social intervention. Institutional fosterage should remain a distant second. It would answer both the need of our society and the spirit of the law.