

The So-Called High-Conflict Couple: A Closer Look

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This article examines the concept of the high-conflict post-divorce couple. It is suggested that the use of this concept encourages the belief that post-divorce conflict is more or less equally the responsibility of both parties, whereas such conflict is often driven by one parent. The understanding of unilaterally driven post-divorce conflict has important implications for constructive intervention and for public policy.

The concept of the high-conflict post-divorce couple is embedded in the thinking of psychologists, mediators, lawyers, judges, and others who work with issues of post-divorce child custody. Articles and books are written about, and conferences are organized around the high-conflict couple or the high-conflict family. The concept has even entered into what might be called family court folk wisdom: we say that Mother Theresa does not marry Attila the Hun or that it takes two to tango. The use of this concept encourages the belief that one person cannot drive a post-divorce conflict, that such a conflict is more or less equally the responsibility of both parties. There have been, however, some dissident voices. Over ten years ago Kelly (1991a), concerned about the unwarranted influence that certain very limited studies of post-divorce conflict and its effect on children were having on custody decisions, questioned the concept:

In assessing the potential impact of conflict on the child, for purposes of deciding the type of custody or access pattern, a competent analysis will go well beyond a simple measure of the level of post-divorce

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conflict. . . . One should assess whether both or primarily one parent is engaged in initiating and sustaining the conflict. Those of us serving as mediators, evaluators, and special masters have noted a fair number of cases in which one parent is more angry and clearly more responsible for creating conflictual situations to which the other must respond. In such cases, it is perhaps unfair to reflexively label the couple as in high conflict, rather than focus on the 'troublemaker.' (p. 2)

More recently, Warshak (2000) echoed these sentiments:

Many evaluators who pride themselves on being family systems oriented, misunderstand their theory to mean that it is impossible to assess *unequal* blame [when there is high conflict], that it is always impossible to determine whether one parent is originating much of the irrational behavior to which the other must respond. . . . Instead they take the easy way out by concluding that this is a quote 'high conflict couple' and they make no attempt to ascertain whether both or primarily one parent is engaged in initiating and sustaining the conflict. (p. 6)

The purpose of this article is to take a closer look at the concept of the high-conflict couple. I will first examine its origin in what I believe to be a misuse of systems theory. I will then give some examples of ways in which one parent can create and maintain serious conflict essentially unilaterally. In this article I focus on mothers and not on fathers who, of course, also initiate and sustain post-divorce conflict. I will therefore explain the reason for this selective attention.

A MISUSE OF SYSTEMS THEORY

Systems theory entered clinical psychology largely through the pioneering efforts of Don Jackson and Gregory Bateson and their colleagues (Bateson et al., 1956; Jackson, 1957; Fry, 1962; Jackson, 1968a, 1968b) who, working in Palo Alto in the 1950s and 1960s, pointed out the importance of looking at the context of a person's behavior for understanding it and being helpful in that person's life. This was, of course, hardly a new idea except in the field of clinical psychology, which was at that time heavily influenced by the one-person model of psychoanalysis. The systems viewpoint found, perhaps, its most useful application in the field of child psychiatry, where a child's symptoms were helpfully understood as arising within the context of his parents' behavior, rather than as springing from his own separate, autonomous conflicts. Family therapy was often seen as the treatment of choice for children's psychological problems; small but important shifts in parental behavior were shown to produce major improvement in a child's difficulties.

Systems theory was also useful for understanding symptomatic behavior that arose in the context of a marriage. Anxiety, depression, psychosomatic illness, and other problems were shown to be partly embedded in the dynamics of a distressing marital relationship.

The emphasis on context, which I believe is the central contribution of systems theory to clinical psychology, does not mean that we understand and explain any behavior only by its context, rather that we enrich our understanding of that behavior by considering its context. Jackson and his colleagues, for example, looked at the family context of acute schizophrenic disorder. Others have looked at the family context of bipolar disorder (Fromm-Reichmann et al., 1954). Finding some similarities among the families of schizophrenic or bipolar patients does not mean that there are no genetic or physiological causes operating. Exploring the marital context of a person's anxiety or depression does not obviate the need to explore additionally the roots of these symptoms in premarital character.

It is important to understand that this emphasis on context was a *corrective* for the then prevailing psychoanalytic viewpoint, which was largely uninterested in the specificities of interpersonal context, either past or present. Psychoanalytic theory contained, however, a detailed and rich understanding of intrapsychic conflict and character and the ways in which that conflict and character can play out in human relations. The early practitioners of family therapy had been trained as psychologists, psychiatrists, and psychoanalysts, and brought this training to bear on their treatment of families and couples. As the popularity of family therapy and the systems viewpoint spread over the last three decades, there has been a tendency among its practitioners to dispense with in-depth clinical training and experience with individuals, and consequently to neglect the importance of individual psychology and the way in which it contributes to the patterns of behavior that get established between people. *Lack of in-depth training in individual psychology and the consequent lack of understanding of individual character and motivation and how they can manifest in relationships are in part responsible for the current reliance on and overuse of systems concepts.*

We are all familiar with the reflexive labeling of two people as a high-conflict couple. It begins at home or on the playground at school. One child repeatedly provokes or even physically attacks another and a fight starts. A parent or teacher intervenes, not having witnessed the beginning of the fight, and blames and punishes both participants. We can sympathize with the adult; it might require a great effort and a substantial amount of time to figure out who started the fight. One might never be able to know for sure. But to the child who was provoked and who finally responded, being seen as an equal participant in the conflict and being punished, is a miscarriage of justice. In this situation, the concept of the high-conflict couple is a construct created in large part by the limitations of the observer. The difficulty that mediators, custody evaluators and the court have in knowing what really

happened between two people giving them different stories (i.e., their limitations as observers) explains in part why they fall back on the concept of the high-conflict couple.

Systems theory emphasizes the multiplicity of contexts and the nesting of contexts of different levels. To understand the causes of high post-divorce conflict, in addition to looking at the ways in which one or both members of the couple create and maintain the conflict, we must look at the larger context of the conflict and the ways in which the conflict is often embedded in and encouraged by a larger system: extended family and friends, so-called support groups with their own political agendas, therapists, and especially attorneys and the adversarial legal process. Kelly (2002) has described some of the ways in which the legal system reinforces and even creates conflict.

[The adversarial process] pits parents against each other, encourages polarized and positional thinking about each others' deficiencies, and discourages parental communication, cooperation, and more mature thinking about children's needs at a critical time of change and upheaval. . . . Attorneys frequently remind us that fewer than 5% of custody disputes go to trial, as if trial were the only destructive part of the process. The damage starts very early in the adversarial process, and for many, continues over a prolonged period of time. As part of legal strategies, parents are advised not to speak to the other parent, and memories are searched, exaggerated, and distorted for damaging information that will build a winning legal case. (p. 3)

Johnson and Campbell (1988) point out some of the destructive consequences of motions filed as part of the adversarial process:

Needing to show evidence of neglect, abuse, physical violence, or emotional or mental incompetence to win their client's case, these moving papers, which are a public record of charges and countercharges, cite unhappy incidents and separation-engendered desperate behaviors of the parties, often out of context. The consequent public shaming, guilt and fury at being so (mis)interpreted motivates the other parent's need to set the record straight. (pp. 39–40)

Understandably, we have some difficulty in recognizing the degree to which the very system in which we operate encourages the conflict we are addressing. Perhaps we need a new phrase, "lexigenic conflict," which, like "iatrogenic illness," calls attention to the casualties of a system gone wrong. The failure to take adequate account of the degree to which a post-divorce conflict is embedded in and in part created by a larger conflict-encouraging system is another reason why the concept of the high-conflict couple is overused.

While our legal system exacerbates the conflict inherent in divorce, it is inaccurate and unfair to place all the responsibility with the system and its practitioners. Clients sign off on their own motions. False and incendiary accusations are ultimately the responsibility of the parent making them, not the parent's attorney, some of whose other clients may not be engaging in this kind of tactical warfare. Sometimes a parent is quite willing to have a champion go forth to destroy the other parent. False and damaging charges made in the context of a custody dispute can foreclose any serious future collaboration. The accuser remains dedicated to treating the accused like the neglectful, abusing, violent, or incompetent parent she claims he is to continue to make her point and justify her attack, and the falsely accused, in addition to the difficulty he may have of putting aside his rage, cannot afford to trust his ex-spouse. Counter accusations may be leveled to set the record straight; however, the ensuing conflict is not a bilaterally engendered one, even though at some point it may look on the surface like a symmetrical accusation contest between spouses. The preemptive filing of motions that contain false and damaging accusations can close off the possibility of any future collaboration and set the stage for a post-divorce relationship that is intransigently adversarial. It is inaccurate to characterize the post-divorce conflict consequent on this unilateral assault as a bilaterally engendered conflict.

Systems theory has been criticized by feminist writers for obscuring the factors responsible for wife battering. Bograd (1984) suggests that terms like "violent couples" and theories of "marital violence" hide the gender-specific nature of battering. They ignore the social context and the cultural traditions that support wife battering. They ignore the preexisting personality characteristics of the abusive husband and relate violence only to transactional variables that developed over the course of the marital relationship. Mostly, they ignore the power inequality that is the context for wife battering. Whatever one may think of the gender-based power balances in contemporary marriages, or even of the incidence of domestic physical violence perpetrated by women as well as men, it seems clear that when it comes to physical violence, men often have more power and therefore more power to harm or intimidate and more power to initiate or to stop the violence. The concept of a "violent couple" disregards this power inequality. *Mutatis mutandis*, when it comes to issues of custody, because of the social context and the cultural traditions that support maternal custody, post-divorce couples often do not share power or control equally. This is certainly true in sole custody/visitation but can also be true in joint custody. Power inequality is a very important context of post-divorce conflict. Disregarding the power inequality that often prevails in custody arrangements can obscure the fact that one parent is often fighting for more equitable access which the other parent is blocking. Calling them a high-conflict couple can be misleading and a misuse of systems theory.

TWO EXAMPLES FROM THE PHILADELPHIA CHILD GUIDANCE CLINIC

As a first illustration of the inappropriate use of systems theory and the concept of the high-conflict couple I would like to review two published cases from the Philadelphia Child Guidance Clinic which, under the direction of Salvador Minuchin and Jay Haley, was one of the earliest and most radical programs applying family systems theory to the problems of children. These cases do not typify the high quality and usefulness of much of the work that came out of the Clinic.

Isaacs, Montalvo, and Abelson (2000) discuss their experience with separating families and the theory they found useful in helping them. The authors followed 103 families over time and selected two cases, which they believed were good examples of high-conflict or “warring” couples. In the tradition of the Philadelphia Child Guidance Clinic we are helpfully given access to actual dialogue, not just the authors’ conclusions about their work.

The first couple, the Trezanos, an example of “sporadic and scared fighters,” had been separated for eight months when Mrs. Trezano, who apparently had primary custody of their two teenage children, decided unilaterally to send them to boarding school in a different part of the state, thereby curtailing Mr. Trezano’s already limited contact with them. (p. 75) She did not inform him of her decision; he learned about it from the children. The authors describe Mrs. Trezano as a belligerent and somewhat paranoid person who was preoccupied by fears that she was being followed and spied on. (p. 76) Mr. Trezano had recently called the police on an enraged Mrs. Trezano who had raided and ransacked his apartment looking for his girlfriend. When the therapist suggested in an early interview with Mrs. Trezano that she should inform Mr. Trezano of her plans for the children because this would be in the children’s best interest, she refused: “Now that I have the ability I will do whatever I think is best, disregarding totally how he feels about it.” (p. 77) When the therapist suggested that she was being defensive and scared, she snapped back: “I’m not scared and not defensive. I’m adamant.” (p. 77)

In their first conjoint interview Mr. Trezano almost pleads to be informed about his children: “All I want to know is, in the future, that’s all, when things come up concerning the kids as far as their health is concerned and education, overall welfare, would it be possible that I be informed . . . ?” (p. 82) She reiterates that she is in charge and has no intention of sharing information. The authors describe her as invested in diminishing her husband’s importance in the children’s life: “From where she stands, to consult her husband about anything pertaining to the children is to lose her war with him.” (p. 87) “She experiences any information sharing as subordination. . . .” (p. 88) Eventually the therapist is successful in getting Mrs. Trezano to share some small amount of information with Mr. Trezano, who bends over backwards to accommodate her wishes. The children’s last weekend before leaving for boarding

school is, by prior arrangement, his weekend with them, which he shares with Mrs. Trezano for the children's and her benefit. (p. 98)

The therapy described was clearly helpful. It succeeded in getting an angry, somewhat paranoid mother who wanted to eliminate her soon-to-be-ex-husband from her life and the lives of their children to take a step toward minimal cooperation around major issues affecting the children. What is puzzling is why the authors describe the Trezanos as a warring "couple." Interspersed among their specific and seemingly accurate description of the Trezanos' interaction, the flavor of which is described above, are such phrases as "troubled dyadic system" and "marriage gone conflictual." (p. 99) They speak of the "couple" as becoming heated up over unresolved issues (p. 74) or of the "participants" as slipping and reescalating "their" conflicts. (p. 96) The "systems" description seems gratuitous and unrelated to either the psychologies of the spouses or the therapeutic process.

The second couple, the Daleys, is an example of "frequent and direct fighters," who are "hopelessly entangled in their ongoing mutual conflicts" and "seem to thrive on chronic fighting." (p. 100) In the dialogue presented they are arguing over a single hour of time with their two children, surely an example of what a high-conflict couple would do. Mr. Daley would like to pick them up no later than 6:30 on Friday, since he finishes work at 4:30 and has to wait around or else drive home and then back, spending an extra 80 minutes on the road. He also wants to spend some quality time with the children (ages 7 and 8) before they go to bed. Mrs. Daley would like him to come at 7:30 since by the time she picks the children up from school and packs their belongings and gives them dinner, there is no time to unwind from the week together and to talk. Whatever one may think of the relative merits of their positions, surely one of them could yield an hour. According to the authors "they insist obstinately on their own points of view, nullifying any possibility of generating creative alternatives to the impasse." (p. 110)

What the authors fail to make clear from the start, but can be pieced together from the dialogue as the chapter unfolds is the time-sharing context of this conflict. Mr. Daley has his children every other weekend. He is fighting for a little extra time on the Friday night he picks them up, in order to make the evening into meaningful family time. Mrs. Daley, on the other hand, has had the children with her for twelve days in a row; the extra hour every other Friday can hardly have the same importance for her. Almost in passing, the authors mention that Mrs. Daley resents the children's having a good time with their father (p. 105), which could explain why she tries to prevent him from having a more leisurely Friday night with them. It could also explain why she is only willing to give him one extra day over the entire Christmas vacation. (p. 115) In spite of their insight into Mrs. Daley's motivation to spoil the children's time with their father and in spite of their cognizance of the time-sharing context of the Daleys' disagreement, the authors treat this disagreement like a symmetrically engendered conflict and call the Daleys a

warring “couple.” They frame Mr. Daley’s attempts to get a little more time with his children as his contribution to the war: “Both are genuinely concerned about protecting their own quality time with the children. Ironically, in trying to defend this quality time they jeopardize it, because their unharnessed fighting constantly upsets the children’s equilibrium. The judge may be pushed to act protectively and take the time away.” (p. 109) They don’t say from whom, but given the custody arrangement it would most likely be from Mr. Daley.

The custody arrangement in place, as I have said, forms a very important context for understanding the meaning of a post-divorce conflict. The Daleys’ fight over a single hour on a Friday night would mean one thing if they were alternating weeks with the children; it means something quite different, if, as was the case, Mr. Daley only had the children on alternate weekends. The authors don’t seem to understand this, which is puzzling because it is so clearly a systems viewpoint. It doesn’t occur to them that a highly skewed parenting plan and the attendant exercised inequity of power creates a particular context for conflict, and that when the disenfranchised parent fights for a little information (Mr. Trezano) or a little more time (Mr. Daley) he is not appropriately labeled as part of a high-conflict couple.

SOME FURTHER EXAMPLES

Counterdependence

Johnston and Campbell describe counterdependence as a pseudo-autonomous stance that serves to deny underlying dependency needs and fears/desires of merging with and being controlled by another. Counterdependent parents present themselves as self-sufficient, extremely independent and in control of their lives. They are actually rigid and dictatorial, refusing to compromise or cooperate because this feels to them like capitulation. This refusal to cooperate or compromise frames the post-divorce dispute:

Most of these counterdependent parents are women, who historically report intense dependent relationships with early caretakers from whom it was difficult to separate. The marriage was often conceived as a way of breaking these ties and leaving home, but quickly became a reenactment of earlier unresolved individuation conflicts—that is, they replaced their dependency on their mothers with dependency on their spouses. . . . [Their decision to divorce is seen by them as a forward step in their pursuit of individuation and separateness.] However, they pursue their separateness with a rigidity and aggressiveness that is provocative and frustrating. They are not able to accomplish the final major step in the individuation process: They cannot say yes, cooperate, or compromise without feeling submergence of self. (p. 115)

The counterdependent woman's new-found autonomy is played out almost entirely with her ex-husband, and she may actually become very dependent once again on her parents, who may be quite willing to regain their lost place as her support system, encouraging her adversarial stance toward her ex-husband (Dell and Appelbaum, 1977). Having made a bold and irrevocable step into the adult world, she is understandably anxious; her anxiety and her practiced persona of helplessness may enlist the righteous support of others, including her attorney, who may see her as a victim and take up her cause. The marriage of the counterdependent woman and her ex-husband was integrated with a complementarity that placed him in charge and also responsible. She now turns this arrangement on its head, proposing not a symmetrical balance of power and responsibility, but a reversal of the complementarity. The ex-husband of the counterdependent woman can do nothing to create a cooperative, low-conflict relationship with her as a co-parent short of disappearing; he must essentially abdicate his parental role or find himself in an endless series of conflictual situations. Accustomed to being both in charge and responsible, it is very hard for him suddenly to be fired, and he may not take this lying down. It is especially hard for him to sidestep her more provocative attempts to sideline him and it is likely that eventually he will reciprocate or force a showdown and be seen, unfairly, as part of a high-conflict couple:

Mrs. A registered her son on a baseball team using her maiden name, omitting the boy's father's name or address. He tried in vain to get the coach to let him know the schedule, explaining that he would be bringing his son for many of the practices and games. It cost him \$200 to have his attorney write a letter to the baseball association, informing them that he had a legal right to know the schedule. In the process he had some angry words with the coach. Mrs. A also enrolled her daughter in a religious school without consulting her ex-husband, who was not of this religious persuasion. He refused to take her and was accused by the religious teacher of neglecting his daughter's spiritual education. On another occasion when Mr. A came to pick up his children during a scheduled visit, Mrs. A informed him that they were playing at a neighbor's house. When he then tried to pick them up at that house, he was denied access and told that the children could only be given to him with Mrs. A's permission. They agreed to call Mrs. A. When she did not answer the phone, Mr. A became angry and demanded that his children be told that he had come to pick them up. Instead, he was told to leave or the police would be called. Months later, in the context of a court hearing, letters from the baseball coach, the religious school teacher and the neighbor all testified to Mr. A's anger and impatience and involvement in the conflict with his ex-wife to the exclusion of his children's best interests.

The counterdependent woman may be so intent on asserting her independence from and power over her ex-spouse that she will spite him at

the expense of her children. He may be pushed to take things into his own hands, violate a court order, and be seen as part of a high-conflict couple.

Mrs. B refused to bring her son to soccer practice when she learned that Mr. B, who had played soccer in college, had been asked to be assistant coach. He withdrew and his son played on the team. For the last game of the season, the coach had to be unexpectedly out of town and Mr. B was asked to take over. The team was tied for first place in the league. Mr. B's son was one of the best players, having been coached by his father from an early age. When Mr. B arrived at the soccer field and his son was not there, he suspected the worst and drove in anger to his ex-wife's house. His son, sitting sadly out in front of the house, told him that his mother refused to bring him. Mr. B told him to get in the car and took him to the game. Mrs. B filed a motion for contempt.

Borderline Psychopathology

Diagnostic distinctions in psychology do not have the clarity they have in medicine, and nosological categories often overlap. There is a spitefulness about Mrs. A's and Mrs. B's behavior that is not an intrinsic component of counterdependence. When spite reaches a high enough level and reflects a pervasive rage at and demonization of the ex-spouse, it is appropriate to speak of borderline psychopathology. Although there are many definitions of this condition in the psychiatric literature, there is substantial agreement that people with borderline psychopathology have severe difficulties with ambivalence, i.e., holding a complex set of often-contradictory feelings and memories about another person. They tend either to idealize or to scorn and condemn others. Typically a new person in a borderline's life is idealized until he or she acts in such a way as to make this idealization difficult. The borderline then turns at some point on the person with an intense and primitive anger that ignores all the positive features on which the idealization had been based.

Schreiber (1998) suggests that borderline men are more easily spotted by the Court than borderline women. The men tend toward threats of violence and litigation and can be handled appropriately, "whereas borderline women tend more toward manipulation and control—traits that may tend to keep them 'under the radar system.'" (p. 2) It is this expression of rage under the radar system that makes borderline women difficult to spot and can mislead an observer into thinking that a conflict is bilaterally rather than essentially unilaterally driven. I quote Schreiber's paper at length because it is not in print:

[Borderline women] seem to be brighter than average, attractive, and compelling in their initial presentation of personality or story. They also

can be seductive and manipulative. For this reason they can fool 'good' or savvy people, including pretty normal husbands, excellent psychological testers, and experienced therapists and evaluators. . . .

There is a way to pick up borderlines. I call it the 'Fat File, Many Cooks, and Crazy Father' syndrome. A large case record is always a warning sign. . . . Borderlines tend to embrace new professionals, but then to fire them or drive them away as soon as any aspect of their position is questioned. . . . A related warning sign is the presence of fighting among professionals or others involved in the case who would not ordinarily be expected to be at one another's throats. . . . Often borderlines are sitting quietly 'in the eye of the storm.' (p. 4)

What really inspired this paper, however, is the 'crazy father' part of the syndrome. These ex-husbands present in an absolutely generic, pathognomonic way. First their appearance: they have wild eyes, blotchy red faces, smoke coming out of both ears, spittle on one side of the mouth, and drool coming down off their chins onto their shirts. Confronted with this 'madman,' newer professionals entering the dispute will seem him as at least difficult, but usually as irrational, dangerous, and even psychotic. These men are at war with their ex's, with the Court, with new evaluators. Many times I have said to family court workers, mediators, judges—'He's not crazy, he's just angry!' And that crazy appearance does go away as soon as father is understood and affirmed. Driving this behavior is the hidden provocation of the borderline.

[The borderline mother] is absolutely masterful at making the primary object of her rage appear crazy, or at least unreasonable, to uninitiated third parties. And usually, the complaints of the 'straight man' seem petty, whereas to him they represent the 'last straw' of tolerance of patterns of incremental advantage-taking on the part of the borderline. Mother simply will not answer numerous phone calls, or not open numerous letters appealing for a discussion of planning for a particular weekend, holiday or vacation visit. Then, the first time father refuses a similar request from mother, she is in Court, or back to the Special Master, making father sound at fault. Another example: A borderline mother informs father in a note that she will be keeping their son an extra two hours on a Saturday, because it is step-father's birthday. Father says no; mother appeals to the Special Master. Father seems petty and unreasonable. It turns out that father has given up asking for reciprocal requests, having had more than a dozen similar pleas for flexibility over the years simply ignored; in addition, the 'extra two hours' will mean the missing of a regularly scheduled piano lesson on father's time— an activity of which mother disapproves. This is further complicated by the fact that father has felt unable to tell mother about the lessons because she has in the past placed immediate negative pressure on the child around activities that she had not chosen. (p. 5)

The borderline mother will often make false allegations in the context of a custody dispute:

The intense anger [of the borderline mother] when directed at father often comes in the form of strong charges. I was surprised to count, in the eleven cases I am most familiar with, charges of physical or sexual abuse were made in nine of them. What this does of course is to raise the ante considerably. All concerned feel compelled to take these accusations seriously and to evaluate them—usually at enormous direct and indirect expense to father. He has to pay for an additional, often hostile, examination, and from that time on he is ‘branded’ with the imprimatur of abuse. . . . In all of these cases I worked with the fathers or families for a long time—from many months to several years, so I feel that I came to understand what was really going on. In only one did I feel that father’s behavior towards a child was inappropriate, and with that one it was an issue of discipline. Father believed in rare, controlled spanking, but was converted to more relaxed parenting as we went along. The other charges were simply false. (pp. 6–7).

Narcissistic Psychopathology

Despite disagreement about the origins of narcissistic psychopathology and the many meanings it has in the psychological literature, there is a general consensus that narcissistic pathology involves a pervasive failure of empathy. Hoffman (1982, 1984) describes the development of empathy, which he links to the development of the child’s cognitive sense of the other. *Global empathy* is experienced by the child in roughly the first year of life, before he has achieved a stable self-other differentiation. An example of global empathy is the distress cry of a 10–14 month-old child in response to the distress he witnesses in others. (Zahn-Waxler and Radke-Yarrow, 1982) *Egocentric empathy* characterizes the child in the second year of life who has achieved substantial self-other differentiation or “person permanence.” These children “cannot yet fully distinguish between their own and the other person’s inner states, however, and . . . their efforts to help others . . . consist chiefly of giving the other person what they themselves find most comforting.” (Hoffman, 1982, p. 287) *Empathy for another’s feelings* begins to develop around the ages of two or three and parallels the child’s growing recognition of others as having inner states independent of her own. *Empathy for another’s general plight* develops by late childhood or early adolescence along with one’s recognition that others have “personal identities and life experiences beyond the immediate situation.” (Hoffman, 1982, pp. 286–288)

Narcissistic pathology in the context of divorce manifests as a parent’s pervasive preoccupation with his own inner states and personal identity to the exclusion of the other parent and of his own children. There can be empathic failures at some or all of the above described stages. For some parents these empathic failures are best understood as casualties of a frantic effort to repair divorce-related threats to self-esteem. For others, however, the self-preoccupation and empathic failure is more a personality style that

has its origins in a childhood experience that may have been one of serious neglect and wounding, but may also have been one of overindulgence and the absence of any requirement to take others' needs into account. These parents are indifferent to the wishes of their ex-spouse and oblivious to the needs of their children:

Many such parents view themselves in such a superior light that they do not feel they should have to develop plans or cooperate with the other parent. Indifferent to the needs or desires of the other, they feel the ex-spouse should capitulate to their demands. They expect special favors and privileges, without assuming reciprocal responsibilities, and they become outraged if they do not get what they want. . . . Children, for such parents, are narcissistic extensions of themselves, appendages similar to their body parts. They have limited ability to recognize and respond to their children beyond their own wishes and needs. . . . In their need to reject their former spouse, these parents do not recognize the child's attachment to the other parent. From their perspective, they and the child are one: 'I want him out of our lives'; 'She left us.' By placing value only on their own relationship with the child, they fail to acknowledge the total life of the child. They pursue their own interests with the child, more or less disregarding the other parent, thereby fragmenting the child's world. (Johnston and Campbell, pp. 82–83; 86–87)

Some of the examples above illustrating counterdependence and borderline personality have narcissistic features. The counterdependent woman cannot easily have empathy for her ex-spouse because she is preoccupied with her own psychological growth. The borderline woman does not have empathy for her ex-spouse because she has placed him in the category of "bad object" or "non-person" and his experience no longer matters. What distinguishes the narcissistic individual, and this is, of course, a matter of degree, is a pervasive characterological self-centeredness and entitlement:

Mrs. C, who left her husband for another man, was infuriated when, several months later, he met another woman and began a relationship with her. She repeatedly telephoned the woman, berating her and telling her that she did not want a slut sleeping in her (Mrs. C's) sheets. While Mrs. C would take the children on vacations with her boyfriend, often all sleeping in the same room, she refused to allow them to visit their father if his new girlfriend was present, even during the day.

Mrs. D. perceived herself as a traditional Latin mother who was of central importance to her children. Being a mother, in her eyes, gave her the right to do whatever she wanted with her children. Her 'mother's intuition' meant she knew what was best. If she was fulfilled, then the children were fulfilled. As she had no need for the father, she completely rejected his importance to the children, frequently denied him visits, and

at times completely terminated his access to them by snatching the children across the state line. (Johnston and Campbell, p. 83)

Mrs. E placed a hidden tape recorder on one of her children for their interviews with the family's parenting coordinator. She would then review the tapes and criticize the parenting coordinator for "unfair" questions asked her children. She also wired this child for dinners with his father in order to catch the father saying something that might be damaging to his court case. She had no thought of what the experience of her child might be carrying the hidden tape recorder. (Baris et al., 2001, pp. 16–19)

There seems to be general agreement that the ex-spouses of narcissistically disturbed individuals can do little to avoid a conflictual relationship short of acceding to their wishes. Johnston and Campbell write that because "moderately [narcissistically] disturbed persons' disputes with their ex-mates are often primarily intrapsychically motivated, their spouses can do little to offset their need for conflict." (p. 86) Baris and colleagues, for whom narcissistic disturbance is the hallmark of what they call "high conflict personalities," state that the spouses of these disturbed individuals "have a terrible time working out a cooperative divorce arrangement. They remind one of a gored bull, standing in confusion in a noisy stadium with little clue as to what hit them or what to do about it." (pp. 40–41) In other words, the narcissistically disturbed parent is capable of essentially unilaterally creating and maintaining post-divorce conflict. In spite of their insight into this phenomenon, Baris et al entitle their book *Working With High Conflict Families of Divorce*, which gives the misleading impression that the families or couples are high-conflict; what they mean by a high-conflict family is a family in which a narcissistically disturbed individual creates high conflict.

WHY FOCUS ON MOTHERS?

Until very recently it has been assumed that joint custody or shared parenting is contraindicated whenever there is high post-divorce conflict. For example, in *Braiman v. Braiman* (1978) which is still an influential case in New York, the Court of Appeals held: "Entrusting the custody of young children to their parents jointly, especially where shared responsibility and control includes alternating physical custody, is insupportable when parents are severely antagonistic and embattled. . . ." There is only one index reference to joint custody in all of Johnston and Campbell, which states that children of ongoing post-divorce disputes do not benefit from joint custody or frequent access to both parents (p. 173). This pronouncement, which is surprising given the insight they demonstrate in their book into the ways in which post-divorce conflict can be created both by the larger legal system

and by one parent unilaterally, was based on some very limited research conducted by Johnston and her colleagues (Johnston, Kline, and Tschann, 1989). By the author's own admission (Johnston, 1994) the research used a small sample of couples in extreme conflict, it did not measure long-term outcomes of child dysfunction, it measured outcomes by averaging parental reports, it did not distinguish verbal from physical aggression, and it did not measure parental dysfunction, known to be a major factor in predicting how children fare (Kelly, 1991b). Additionally, it did not consider factors that are known to mitigate the effects of parental conflict on children, like neutral exchange locations, school for example, and the support and oversight that can be provided by a parenting coordinator or a special master. In spite of these limitations Johnston's conclusion was repeatedly quoted in the press, cited by other articles and books without any mention of the research limitations, and used by the courts to justify the awarding of sole custody in cases of high conflict.

Although the research literature shows that in general children do as well in the custody of their fathers as in the custody of their mothers (Warshak, 1992; Kelly, 1991b), awards of sole custody still go overwhelmingly to mothers. It is therefore possible for a mother who wishes to exclude a father from a significant co-parenting role to create a conflictual situation in a variety of ways, some of which have been illustrated in this paper, and end up with sole custody of her children (Guidubaldi, 1996). This is not a rare phenomenon. In fact, it constitutes an additional and darker reason for the misuse of the concept of the high-conflict couple. In the context of gender-neutral custody statutes, especially ones with "friendly parent" provisions, and in the context of an increasing trend toward shared parenting, those who believe that children of divorce belong, *ceteris paribus*, with their mother have had to resort to some creative thinking. One thing they do is to play what might be called conceptual politics. Enter the "primary parent" and the "high-conflict couple." If both members of a couple are equally to blame for the post-divorce conflict then there is no "friendly parent" and sole custody can be awarded on some other basis, like that of "primary parent," which is defined so as to usually be the mother. A father wishing to maintain a significant co-parenting role in the face of a mother who is willing to behave in some of the ways described in this paper finds himself potentially in a Catch 22. If he doesn't comply with her wishes and essentially withdraw, he risks being drawn into a post-divorce conflict, labeled part of a high-conflict couple, and removed. The level of maturity, psychological intelligence and equanimity it takes to side-step some of the provocations these fathers have to deal with is beyond the abilities of most people, let alone the abilities of a person in the extreme (DSM IV) category of psychosocial stress in which these men often find themselves. Fathers can and do create and maintain post-divorce conflict both unilaterally and also as one member of a high-conflict couple. They are, however, as Schreiber points out, much more

easily spotted than mothers and very rarely end up with sole custody of their children.

At the center of most post-divorce conflicts involving children is the issue of custody/access. Virtually all of the eighty high-conflict couples studied by Johnston and Campbell, for example, were fighting primarily about this issue. (p. 6) When the concept of the high-conflict couple is used to obscure what is really a conflict over custody/access and used to weight the outcome of that conflict in favor of the parent creating it in an attempt to exclude or marginalize the other parent, we have a serious miscarriage of justice and in some cases a disregard of law. We lose opportunities to make interventions that may deescalate the fight. Mostly, we betray the children by depriving them of one of their parents. There are cases in which a parent should be excluded or marginalized after divorce. This should be done for clear and compelling reasons and not because of the preference of the other parent, abetted by conceptual politics and a misuse of social science.

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