

All God's Children: Religion, Divorce, and Child Custody

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Many young Americans, married and marriageable, are turning to more traditional or fundamentalist religions. Religiosity and ultra-strict morality often leads to attitudes that alter decision-making in marriage, divorce, and the disposition of the children of divorce. Judgmental pastoral counseling may affect these decisions even more. This paper discusses these issues, emphasizing the need for forensic psychiatrists involved in the custody arena to be aware of the religious, spiritual, irreligious, or even anti-religious feelings of the battling partners. It also presents detailed information about the four major American religions (Roman Catholicism, traditional Judaism, Mormonism, and Islam) that have specific doctrine, protocols, or customs affecting decisions in marriage, divorce, and child custody and visitation. This information is presented from the viewpoint of a child advocate. Mental health experts consulting in child custody must understand the backgrounds of the battling parents, including the religious pressures that well may adversely affect their interspousal disputes, particularly those over child custody. The experts must also recognize the attitudes of the religious communities in which the custodial parent may reside after divorce. Those attitudes may be rejecting of the children as well as of the divorced parent(s). Mental health experts may have a better chance to reach agreement between the battling parents if the experts reverse the historic reluctance of psychiatrists to evaluate and discuss the religious feelings and beliefs of their forensic evaluatees.

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Countless explanations have been offered regarding the upsurge of the strong fundamentalist religious beliefs to which more and more Americans have been attaching themselves. Definite, right-and-wrong moral codes, as promoted by many fundamentalist or ultra-orthodox churches, may be very appealing to many people in today's era of doubt and near constant social change. Many of those churches provide services that deliver emotional highs via charismatic means, rather than the sober rituals characteristic of the more familiar mainstream faiths.

Regardless of the reasons for this religious revival, the fact of its existence is unquestionably an increasingly important aspect of contemporary American life.¹ The comfort and security felt by many who adhere to those doctrines often promise to relieve

anxiety regarding difficult or threatening choices in life, such as the possible break-up of a marriage and the disposition of the children. The growth in numbers within those religious groups has been enormous over the past 15 or so years. However, adherents of even the strictest religious groups divorce, too, and they fight over custody and visitation of their children.

All of these contemporary religious trends may also be significant to judges and the lawyers appearing before them, as well as to the divorcing couple. Thus, these trends may influence judicial decisions regarding the disposition of the children of divorce. Forensic psychiatrists and other mental health experts involved in the struggles over child custody will need to know all the factors that may influence the combatants and, quite possibly, the decision-makers as well. Not the least of these factors are the parents' religious orientation and religious dedication. As will be seen, knowledge of these factors will also provide clues to the eventual fates of the fought over children,

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which is the most important concern of the child-advocating forensic expert.

Surveys indicate that most Americans consider themselves religious to some degree, if not particularly devout or observant.² Many who declare themselves as religious do not belong to any organized religion. A recent nationwide poll conducted jointly by the Scripps Howard News Service and Ohio University indicates that one of nine Americans answer "none" when asked their religious preference.³ Nonetheless, they may express a belief in God or some Higher Power, or they may have developed strong feelings of spirituality without a particular religious or denominational direction. Further, many people who acknowledge some affiliation do not practice the rituals of that religion, including attending religious services. But somehow, they are all religious to some extent or in some personal if not denominational way. If they are affiliated, it may be with a new denomination, or a non-Western one, or they may simply express that they are "spiritual," a term with as many personal definitions as adherents.

Importantly, the poll reported that single adults who have no children are more than twice as likely to be religiously indifferent as married people who are raising or who have raised children. Only 8 percent of married-with-children households are not involved in organized religion, compared with 18 percent of adults who are childless and single.

These findings tend to emphasize the important influence religious beliefs may have in the lives of parents and the likely effect of that influence on decisions to divorce and possibly to fight about the custody of the children. The religious revival, however, does not only affect the religious. Secular parents, too, follow personal moral codes that may be quite as strict in many ways as those formalized by the devout. For example, those who have lacked organized religious upbringing may have been influenced by the religious attitudes of their peers or by other role models in their early lives. They may "find God" or convert to an orthodox religion later in life. The tenacious religious experiences of converts are not a cliché. Also, intermarriage is now a social norm in the Western world. In almost any case, deep religious feelings in either of the battling marital partners will affect both partners' thoughts, feelings, and attitudes toward staying together, separating, divorcing, and deciding what to do about the children.

Even though one spouse may be less religiously

observant than the other, not observant at all, or frankly anti-religious, each of the divorcing partners, as well as their families, lawyers, and judges, and especially their mental health counselors, must strive to understand all of the possible forces acting on both spouses. Some of those forces are often based upon religious doctrine long thought of as forgotten or unimportant. Too many cases have shown that these influences are anything but unimportant.

Historically, psychiatry and religion have been perceived as poles apart and, in fact, often mutually hostile. Characteristically, psychiatrists have not often investigated the religious beliefs and feelings of patients or of subjects for forensic evaluation. Times have changed, however. Many religions have established training programs in pastoral counseling and psychology in their own seminaries. Priests, ministers, rabbis, and other religious counselors have adopted tenets of psychodynamic psychology in their own attempts to work with their parishioners, which has aided many pastoral counselors in their constructive efforts. Because of their own strong belief systems, some of these counselors may guide their troubled congregants into paths that might adversely affect decisions regarding their children. On the other hand, religious counselors may not be able to achieve a peaceful, reasonable settlement of divorce and custody issues because of the rigid beliefs of one or both combatants.

Many forensic psychiatrists continue to ignore the significance of the religious beliefs and practices of the people they examine. Given that those beliefs can affect decisions regarding the children of bitter divorces, examiners can no longer disregard those issues. All mental health experts called to evaluate custody and visitation battles should determine the parents' religious attitudes and considerations, as well as those of any pastoral or lay counselor who may have advised one or both partners. It also might not be a bad idea to determine the attitudes of the lawyers involved or, if possible, the (potentially rigid) religious beliefs of the judge hearing the case if it goes to court.⁴

Religion, Parents, Counselors, and Judges

Divorce is a weighty topic for most people, regardless of their religious beliefs or lack of those beliefs. Divorce is, of course, always hard on the children. Rigidly moralistic stances of some devoutly religious, combating parents, at times strengthened by their

religious counselors, may increase the weight and burden borne by the children. Those burdens may not be restricted to the periods of time when the divorces and custody issues are being battled out but will, of course, determine many of the directions taken by the developing children during subsequent years. All counselors, whether pastoral or lay, attorney, judge, or evaluating forensic psychiatrist, should be aware of the future effects on the fought over children, and they must try to educate the battling parents about those likely ramifications of their rigid stances.

Most mainstream denominations, even the more fundamentalist ones, consider divorce and marital failure as situations that demand pastoral counseling. By and large, they believe that, at least initially, they must try to save marriages that, after all, were celebrated as religious rites. Religious counselors may not consider no-fault divorce as a positive force in society. The counselors represent pious attitudes that justifiably emphasize morality and the keeping of vows that everyone agrees were not to have been made lightly. When it becomes apparent, however, that a marriage is not viable and that separation and divorce will be inevitable, pastoral counselors often shift their approaches. Without abandoning their strong religious and moral principles, they may counsel their clients constructively about separation processes that do not have to tear each of them apart emotionally and may prevent the untoward development of the involved children.

Insofar as the disputed disposition of the children is concerned, however, some pastoral counselors may favor the parent who they believe may have been more "wronged" in the marriage, provided that parent is able to take good care of the children. In those situations, when custody battles may erupt, pastoral counselors have at times become advocates for one or the other side, depending upon how they see the moral "rightness" of that side. When that happens, a court battle usually becomes unavoidable and increasingly intense. If one or both attorneys and/or the judge also have rigid religious beliefs and feelings, the situation can become even more intense and hurtful to both partners. The religious attitudes and allegiances of court officers toward each partner and the partners' behavior or religious leanings have often led to courtroom decisions based upon the court officers' own strong religious principles. Other factors in the cases that might have led to different decisions

were often ignored or minimized. Such decisions can easily lead to the children suffering more.⁵

The direction of the counseling provided to either the devout or secular partner may affect the course taken by the battling parents. If the pastoral counselor is authoritarian, for example, regardless of the particular religion, he or she may address only the scriptural notice that no man should tear asunder that which God had joined together. In such cases, the couple may find themselves eventually bound even more helplessly and hopelessly in a relationship that provides nothing but pain to them and possibly even more to their children. Often, religious expressions and attitudes emphasize guilt and shame, factors in nearly every failed marriage that may lead to more harmful decisions by and for the battling couple and their children. Guilt and shame are primary reasons for continuing most non-viable marriages, even more than the vaunted economic causes.⁶ Although the money situation is usually spoken about more frequently, that is often only a rationalization. After all, who wants to go around talking about guilt and shame as primary motivations?

Secular married partners, or partners in intermarriages, are often especially susceptible to feelings of guilt and shame. Those sensations may be self-induced or induced by some pastoral counselors who may castigate the non-religious partners for their lack of acceptance of the counselor's (and the partner's) religious beliefs. Counseling that promotes or amplifies those feelings in susceptible people often results in anger on the part of both partners. The religious partner becomes angrier at the non-religious or irreligious spouse when that spouse refuses to accept the moral judgments expressed by the religious counselor. The more secular partner, in turn, usually becomes angrier, too, and quite likely more overtly anti-religious as a defense against picking up the increased guilt or shame promoted by the counselor. That angry non-religious spouse usually leaves the counseling and the marriage, or else seethes with bitter rage while staying within the so-called relationship. Given that situation, the angry religious spouse usually remains in the pastoral counseling relationship in order to receive the guilt- and shame-assuaging effects of a supportive religious counselor and to build increased stores of self-righteous resentment against the other spouse. If there is an eventual divorce, a custody battle is probable. The children will likely hear from the pastorally supported spouse

about the alleged immorality of the non-religious spouse or from the secular spouse about the so-called religious fanaticism of the more pious partner. What the mutual deprecations of the battling spouses do to the torn children, as expected, is disastrous. This leaves any mental health counselor involved in the custody arena with a most difficult but nonetheless mandatory task—to get the couple to understand and recognize the damage done to their children through these attitudes.

On the other hand, pastoral counselors have often provided considerable good for their clients. Religious counselors who express support and encouragement can be tremendously helpful, especially when they combine that support with genuine understanding of the emotional needs of the embattled couple and their children. Such an approach offers those parents a respite from those dreadful, self-punishing, guilty/rageful obsessions. It offers the possibilities of compromise and reasonably civil relationships with the opposing spouses, with the added blessing of backing from a person whose religious authority and moral values are beyond question.

Homosexuality

Although this article will subsequently address specific protocols and doctrines affecting divorce and child custody promulgated by four specific major American religions, the issue of homosexuality as a determining factor in custody disputes tends to sweep across most religions. Certainly, the feelings and beliefs about homosexuality described herein are often perceived as such within the four specific religions to be described later, but they will not be discussed separately in those sections.

The very inclusion of this issue in a discussion of religion is controversial because there are many who believe that religious doctrine and scriptural references may actually be misused to disguise basic, underlying homophobia and associated biases. Nonetheless, we should not ignore the strong possibility that deep religious beliefs may exacerbate the already pervasive prejudices against homosexual men and women in our society, particularly with respect to child custody and visitation. Certainly, many religious counselors and clergymen believe that homosexuality represents a sin of one degree or another. For example, there may be an expressed semblance of tolerance toward homosexual individuals, especially if the clergy are satisfied that the homosexual feelings

remain only that and do not progress to overt homosexual relations. Other clergy of varied religions (and many of their parishioners) believe that the very existence of those feelings is inordinately sinful. On the other hand, some clergy even promote the acceptance of homosexual ministers and homosexual marriage. The issue of how to regard homosexuals and homosexuality is an unsettled one within many religions and among many people who declare no denomination whatsoever; it has often become quite divisive in liberal as well as fundamentalist denominations.

When a homosexual parent makes manifest peace with his or her sexual identification some time after marriage and child bearing or rearing, divorce often follows. The other spouse usually harbors a deep sense of betrayal, perhaps even more so than divorcing spouses may feel in situations that do not include homosexuality. The sexual capacity and identity of the “betrayed” spouse is often threatened by virtue of the other spouse’s favoring a mate of his or her own sex, and those feelings of threat usually give rise to intense rage, deepened by religious expressions of the sinfulness of homosexuality. The heterosexual spouse’s perception of sinfulness and, of course, the associated rage are compounded if the homosexual spouse has actually developed a homosexual relationship. As with an extramarital heterosexual relationship, adultery is an offense seen as sinful in itself in the tenets of most religions, liberal as well as fundamentalist. Heterosexually or homosexually, the marriage vows have been violated, and that is enough in many denominations to second a partner’s decision toward divorce.

Often, divorces in these situations are especially bitter, because the heterosexual spouse may not want the homosexual spouse to have any visitation with the children. Visitation is probably the most common issue with which the psychiatrist will need to struggle in any religiously flavored custody battle.⁷ Visitation may be the only compromise available to strongly religiously moralistic parents, but often the “betrayed” parent, his or her religious counselor, and that parent’s religious family as well will fight hard against any visitation with such a perceived sinner. Myth-based fears abound of homosexual parents seducing their children of the same sex into sexual relations. Many people, especially bitter spouses, erroneously associate pedophilia with homosexuality. Unfortunately, in my own experience in a number of

custody battles, that association has sometimes even been raised by pastoral counselors, with difficult and sometimes terrible consequences to the children. The effects of the loss of any relationship with the "sinful" parent may be compounded by problems in determining their own identifications in later life. They may wonder, "Am I like my father/mother?"

The homosexual parent may well determine to fight for custody. Given that case, what role does the forensic evaluator play? Does the psychiatrist cite research indicating that homosexual parents may make good parents and may not "infect" their children.⁸ On the other hand, as I had to do in several cases, does the psychiatrist investigate the homosexual parent's possible underlying needs to have custody of the children? As only one example, is the homosexual parent seeking custody to demonstrate his or her so-called normality, or to relieve underlying senses of guilt and shame, or for a plethora of other reasons?⁹

In any event, the psychiatrist may well have to wrestle with the religious beliefs of the "wronged" parent and quite possibly consult with the religious counselor or with other religious counselors to get a better grasp of what really intensifies the battle. This does not mean that the psychiatrist will ever attempt to change those strong religious beliefs; it merely means that the psychiatrist will be better armed with knowledge of what might and might not be possible.

My own experience is that impasses such as these, generally, often tragically, lead to courtroom battles and judicial decisions. Again, those decisions may evolve from similar religiously moralistic stances of the judges as well as those of pastoral counselors and battling parents. Keeping the cases out of the courtrooms, the goal among enlightened child advocates in custody battles, is too often much harder to achieve under these circumstances.

Four major American religions maintain specific protocols and/or doctrines regarding marriage, divorce, and sometimes the disposition of the children of divorce. Most other denominations are, of course, also concerned about the sanctity of marriage and the problems of divorce, but they may not have the protocols or doctrines characteristic of these four. Also, their adherents are not as populous in our society as those discussed here.

The Roman Catholic Experience

Not many of the world's great religions have seen as much internal change over the past half century as

has Roman Catholicism. In the United States, the census has shown wide fluctuations regarding church attendance by Catholics.¹⁰ Even if they are torn by their recognition of contemporary internal dissension and conflict within the Church, American Catholics often find themselves sticking with it to some degree because it represents one of the foremost childhood molding influences in their lives. The importance of the Church and its teachings in the lives of its adherents cannot be overestimated, even in lapsed Catholics.

In sum and substance, the Roman Catholic Church (the Church) does not admit divorce. There is no religious divorce in Catholicism and no recognition of civil divorce *per se* other than the need for one to have been granted prior to any action toward annulment on the part of the Church. A couple cannot apply to the Church for annulment until they have been granted a civil divorce. However, the Church sees the couple's civil divorce only as an indication of the couple's commitment to end their marriage. That specific indication of commitment is necessary for the Church authorities to grant the already civilly divorced couple's request that the Church begin the process that they hope will lead to annulment. In this manner, the Church acknowledges that the laws of the land are also significant in the lives of its parishioners. It renders that much unto Caesar which is Caesar's.

Annulment is the only Church-recognized undoing of the marriage. Annulment simply means that, in the eyes of the Church, no real marriage had ever actually taken place, even if there had been a large church wedding with hundreds of onlookers who had provided expensive presents and even if the marriage had produced children. Annulments used to be much more difficult to obtain than they are today, but now the grounds needed to apply for them before the ecclesiastic tribunals are considerably less stringent. This fact can be attributed to Vatican II, the great Church Council of the 1960s, which liberalized some canon law and practice affecting the covenant of marriage and the family.¹¹

The Church accepts a number of reasons for considering a marriage null and void. One significant example is emotional immaturity on the part of either or both partners at the time that they took their vows. Such emotional immaturity means that they were actually unable to recognize the true and deep significance of those vows when they spoke them.

Mental health experts are occasionally consulted by the ecclesiastic authorities to determine the validity of proposed annulment requests. At times, the consulting expert may recommend that remarriage within the Church not be allowed without necessary therapy that addresses the stated grounds of the annulment request for one or both of the splitting partners.

Without a Church-sanctioned annulment, a civilly divorced Catholic individual is not deemed to be in the state of grace required to receive the sacrament of remarriage. The Church's act of rendering a marriage as never having existed allows the individual to continue to receive all the sacraments and rites of the Church, including remarriage. The other sacraments of the Church, but not remarriage, are available to the civilly divorced party, although misconceptions are still being trumpeted about that situation.

Despite fallacious references by many to the contrary, the Church does not delegitimize the children of annulled marriages, even though an annulment renders the marriage as never having existed. No penalty is applied to the children by virtue of that process. The Church also recognizes and emphasizes the joint responsibilities of both parents to continue to provide for their children, regardless of the reality of the marital rupture or, for that matter, the rupture of an unmarried relationship that bore children. Nonetheless, many harbor considerable resentment against the Church, especially by non-Catholics whose marriages to Catholics have been annulled by the Church.

A recent, very well-publicized book by Sheila Rauch Kennedy, the annulled ex-wife of Rep. Joseph P. Kennedy II,¹² displays the author's wrath at having been told, as she perceives it, that the marriage (via a Catholic ceremony) to which she had devoted 17 years never existed. Moreover, despite the Church's assurances to the contrary, she feels strongly that the entire procedure does place the legitimacy of her children into question. On the other hand, the Church believes that not acknowledging that the marriage had taken place frees the partners from recriminations and also allows them to get on with their lives, including the possibility of getting married again. But feelings of rejection, hurt, and rage are hard to eliminate.

Early in 1997, in response to its recognition of the marked increase in numbers of Catholics who divorce, the Pontifical Council on the Family issued

new instructions and guidelines for priests in order to improve their pastoral counseling efforts with parishioners who have troubled marriages. The goal was to preserve the marriages. Even during the early stages of an annulment proceeding, counseling clergy attempt to determine if the marriage can be saved. The 1997 guidelines also urge priests to remind Catholics who remarry without annulment that they are "... living in a state of sin."¹³

Roman Catholic priests who counsel their parishioners take varying approaches to the issues of marriage, separation, and the disposition of the children of broken relationships. Even before a custody battle may develop, a conservative priest might recommend that the "wronged" partner in the broken marriage should be awarded custody of the children because he or she was morally more correct than the allegedly erring spouse. A basic Church view is that the parent with higher moral practices and standards (presumably the practicing Roman Catholic parent) is better for the child. At times, counseling such as that can lead to a custody battle. By and large, most Church authorities agree with the civil law that the best interests of the children should be the guiding principle. However, the definition of "best interests" may differ from priest to priest, just as it is known to differ from judge to judge. Now that the Church faces severe shortages of American applicants for the priesthood, priests from different countries who come here to serve bring with them their own cultural and traditional backgrounds and biases.

Many dioceses sponsor family service agencies staffed by professional counselors. These counselors are probably well-trained in understanding the emotional needs of their clients and are most likely also aware of the specific aspects of Roman Catholic thought regarding the children of broken families. To facilitate resolution in custody disputes affecting Roman Catholic couples, all mental health evaluators involved in these battles should ask permission to talk with the involved parish priest, then talk with another priest, and then, if at all possible, discuss the situation with the counselors at the local Catholic Family Service Agency. The priests certainly will not violate the confidences of the confessional; however, more often than not, their pastoral counseling took place at home or in the parish offices. Experience shows that many priests are grateful if a caring, sensitive, and capable mental health counselor comes

along to obtain their perspective in the resolution of the battle.

Mormonism, Marriage, Divorce, and Children

The Church of Jesus Christ of Latter-Day Saints (LDS) has grown to become one of the most populous in the United States. Its energetic proselytizing efforts have reached around the world, and the numbers of its adherents grow remarkably each year.

The *Encyclopedia of Mormonism* begins its section on divorce by stating, "The Church of Jesus Christ of Latter-Day Saints officially disapproves of divorce but does permit both divorce (the legal dissolution of a marriage bond) and annulment (a decree that a marriage was illegal or invalid) in civil marriages and 'cancellation of sealing' in temple marriages . . ."¹⁴ To quote then Church President David O. McKay at the April 1969 General Conference of the Mormon Church, "Except in cases of infidelity or other extreme conditions, the Church frowns on divorce . . ."¹⁵

Temple marriages are ceremonies solemnized by proper LDS ecclesiastic authority and are considered by the Mormon Church to be permanently binding and sealed ". . . for time and all eternity."¹⁶ Only the President of the Church can authorize the so-called cancellation of sealing, which would allow a worthy member to remarry in the temple. The church presidents and LDS hierarchy are generally, as expected, a very conservative group standing strongly for the fastness of marriage. They tend to deplore the trend in American society that allows for mechanically easier, no-fault divorce.

The Mormon Church may have even stronger feelings about marriage than some other denominations because of its theology that today's men and women had existed in earlier lives as spirit offspring of heavenly parents. "Latter-Day Saints view life on earth as a time to prepare to meet God . . . and strive toward becoming like Him. Becoming like God is dependent to a large extent on entering into 'celestial marriage' for 'time and all eternity' Latter-Day Saints believe that the marital and family bond can continue in the post-earth life, and indeed is necessary for *Eternal Life*, or life in the *Celestial Kingdom* Given these doctrines, LDS marriages are distinct and different in several aspects from marriages in other denominations"¹⁷ Mormon theology preaches that temple-sealed couples can expect

to reunite in the Celestial Kingdom and to be together again forever following the resurrection, along with their earthly parents and siblings.

Religious Mormons are less likely to divorce than Jews, Catholics, or Christians of other denominations, and they are certainly less likely to divorce than those with no religious affiliation. However, not all Mormons marry in the temple; many are content with civil marriages. Such non-temple marriages are not considered to be eternal. Of the marriages that had been solemnized in the temple, less than 10 percent end in divorce, whereas close to one-third of non-temple marriages end in divorce.¹⁸

With the emphasis on marriage as an eternal structure, it is no wonder that the divorce rate among practicing Mormons is as low as it is. It is also no wonder that when Mormons do divorce, especially if they had been married in the temple, their senses of guilt and shame may be seriously acute. Again, those difficult feelings may well adversely influence the parents' judgments regarding custody arrangements.

If the LDS bishops believe that a congregant had been wronged within the broken marriage and has ample justification for getting out of the relationship, they will often work long and hard to relieve that congregant's difficult and destructive feelings. On the other hand, the bishops as well as the congregation at large may generally shun those marital partners considered to have been the wrongdoers within the marriage.¹⁹ The Mormon practice of shunning, however, is not analogous to those formal rites also known as shunning that are characteristic of some religious groups, such as the Amish, who may preach from the pulpit the utmost avoidance or frank banishment of wrongdoers from their community. In Mormon circles, there is usually a tendency toward more informal isolation of the wrongdoer by the local community of co-religionists. Nonetheless, this may result in an almost total lack of continuing contact with prior social or even family circles, including the children. In turn, that may have serious deleterious effects on the children.

Excommunication may also occur if the Mormon Church perceives the guilty party to have committed a very heinous sin. Even there, however, the concept differs from other religions in which the offender is cast out forever, without any possibility of rejoining the Church. In Mormonism, the excommunicating body always hopes for reform and genuine repentance on the part of the cast-out offender. Given

sufficient assurances of those changes, the LDS Church may welcome the offender back into its ranks.

By and large, at least officially, the congregation strictly directs its compassion toward the "wronged" partner. Likewise, the bishops and the congregation tend to favor strongly those who they feel were wronged in the marriage insofar as the disposition of the children of the divorce is concerned.

After the divorce of their parents, most Mormon children live with their mothers. This is similar, in fact, to the statistic reflecting the disposition of the children of divorce in general, but specific theological and social factors contribute to this occurrence within the LDS Church. Many of those issues center on the Mormon philosophy regarding the role of women. Most women are reared from childhood to maintain only domestic existences. The *Encyclopedia of Mormonism* acknowledges, "Severe personal and economic consequences usually accompany divorce among Latter-Day Saints. LDS women are often not well-prepared to support themselves and their children, and men may pay little in child support or alimony" ²⁰

The kind of extremely restricted gender roles dictated by such expectations has led to more than economic consequences for divorced Mormon women; many experience extreme feelings of helplessness and abandonment when their husbands leave. If a Mormon woman has been trained and conditioned since birth to be strictly a wife and mother and to lead an exclusively domestic existence, her entire sense of identity could be shattered by a marital break.

Subsequent to recovery from divorce-centered overt depressions, divorced Mormon women may need continued support because of their lack of any identity other than that of a wife. Even with the good will of their community, often including financial support if needed, the ex-wives' anxiety levels may rise markedly, and the children will probably become anxious as well. Anxiety, of course, is more contagious than the measles, and the children may develop behavioral or other problems. The mothers, who may feel relatively helpless to begin with, may have little capacity to deal with their children's problems, and further deterioration of the family may result.

The children of divorced Mormon parents often feel alienation because of the congregation's attitudes toward them as well as toward the divorced mother. Even if the custodial mother is perceived as the

blame-free marital partner, the fact that a divorce has occurred often casts a cloud over her acceptance by the community, and that cloud hangs over the children as well. Although the victims of divorce are said to be accepted by the doctrines of the LDS Church, the unofficial cloud may still affect them because of the degree of anxiety their divorces may create in their still-married peers. The fear that "There but for the grace of God go I" can be exceptionally strong in LDS wives because of their upbringing allowing little other ambition or opportunity than happy domestic lives. Frequently, the divorced custodial parents' often realistic perception of non-acceptance in their community leads them to leave the LDS Church.²¹ Further increased anxiety is the generally expected result of leaving the only community they had ever known. Their anxiety, as well as the separation of the children from their own longstanding, familiar community, of course, also adversely affects the children.

In summary, the LDS Church's strong beliefs in lifelong fidelity and mutual love, and its denunciation of anything that breaks up a household, may in fact create increased problems for some of its members. There is a definite, frequent, almost compelled tendency in troubled LDS marriages to stay together for the sake of the children or for the sake of maintaining fellowship with the Church. That may create a household that rears children who are adversely affected by one or both parents' frustration. Likewise, the need for a remarkable amount of emotional support is the rule whenever there is a breakup of a Mormon family. Much of that emotional support must be directed toward the children. They are, as always, the major victims of divorce.

Traditional Judaism, Divorce, and Children

This section does not describe the practices of Conservative or Reformed Judaism, whose members comprise the majority of American Jews. Obviously, it also does not describe the practices of unaffiliated or non-practicing Jews, who may outnumber all others but who may still feel a sense of Jewish identity. This discussion refers solely to the practices and doctrines of Orthodox Judaism, the most traditionally observant branch of the Jewish religion. Orthodoxy has attracted a large following of young American Jews, which is almost a reflection of the increasing numbers of young Christian people attracted to the more fundamentalist Christian religions.²² Although

differences exist in expectations, attitudes, and customs among some subdivisions of Orthodox Judaism, such as Hasidism and the Lubavitcher movement, the following descriptions are generally applicable to most adherents of traditional Judaism in America.

The *Talmud** has governed Jewish tradition and practice for the past 25 hundred years. Rabbis have commented upon the fact that the passages referring to divorce precede those laws governing marriage by several volumes of that extensive tract. The rabbis explain this by stating that God has never created a disease without first creating a cure; this must not be misunderstood; the disease is a bad marriage, not the institution of marriage itself.²³

The Talmudic grounds necessary to apply for a divorce generally agree with those recognized by most other religions that allow divorce at all. Those grounds include such factors as infidelity, abuse, drunkenness, and lack of support.²⁴ Among some contemporary Orthodox rabbis, there is even room for such no-fault concepts as irreconcilable differences and incompatibility, if those factors create enough misery within the relationship. What may be more unique, however, and agreed upon throughout the Orthodox rabbinate, is the mandate that the request for a divorce must be truly bilateral and mutual.²⁵ The man must give the divorce, but the woman must accept it. This is not meant to translate into divorce being subject to a man's whim—or, as will be seen, into wives being held hostage by husbands who refuse to grant them religious divorces.

When a traditionally observant Jewish couple requests a religious bill of divorce, known in Hebrew as a *Get*, the ecclesiastic council hearing the pleas and arguments for divorce takes care to guarantee the rights of both parties. The ecclesiastic council (the *Bet Din* in Hebrew) is composed of a group of Orthodox rabbis agreed upon prior to the marriage. The umbrella organization of Orthodox rabbis, the Rabbinical Council of America, has prepared prenuptial contracts that the couple must sign prior to the marriage ceremony. These contracts also represent the

bases of the arrangements decreed by a possible *Get*. The terms of the usual *Get*, mandated by those prenuptial agreements, probably call for greater support from the ex-husband than most of today's civil arrangements allow. One of these terms guarantees that the ex-husband will continue to support the ex-wife and any and all children at a stated level that may, in fact, change annually only with changes in the U.S. Department of Labor's Consumer Price Index. Likewise, the terms do not allow any independent income made by the wife to affect the level of support pledged by the husband.²⁶ As in the *Talmud*, cures for diseased marriages precede the cementing of the relationships.

The Orthodox divorce rate has climbed in recent years.²⁷ Much of that may be associated with changes such as economic stresses, which affect all couples in the western world. Characteristically, Orthodox Jewish families had always been headed by a working, albeit studious and pious, father and a full-time mother. In the past, the Orthodox community always regarded a marital breakup as a *shahmdeh*, a Yiddish word indicating a status greater than a shame. But Orthodox families are affected by changes in the world scene, too, and therefore their needs for double incomes have become increasingly common. Likewise, the well-known emphasis on education in many Jewish households may also have contributed to a subsequent emphasis on a career track for the educated wives, and that may lead to other marital stresses in Orthodox Jewish households, as it often does in other households.

The goal of obtaining a *Get*, a religiously sanctioned divorce, is generally applicable only to Orthodox Jews. In Conservative Judaism, the search for a *Get* is less common, and in Reform Judaism it is an almost unheard of objective. Civil divorce without religious ratification is the usual practice in those two branches of contemporary American Judaism, as are the generally accepted civil trends regarding the disposition of the children of divorce.²⁸ In American Jewish Orthodoxy, especially in the Lubavitcher or Hasidic communities, the communities' chief rabbis provide counsel and direction regarding the disposition of the children and visitation by the noncustodial parent. To the congregants in those ultra-orthodox communities, the chief rabbis are perceived as providers of near infallible judgment and doctrine.[†]

*The *Talmud* is the vast compilation of the oral law of the Jews, with rabbinical elucidations, elaborations, and commentaries, in contradistinction to the written laws that are part of the *Pentateuch*, or Five Books of Moses—in Hebrew, the *Torah*. The *Talmud* is the accepted codification of law governing the conduct of Orthodox Jews everywhere. There are 63 tractates in the *Talmud*, each governing a specific portion, order, or epoch of life. The so-called Babylonian *Talmud*, the version perceived for the most part as authoritative, was eventually compiled more or less into its present form in the sixth century A.D.

†An illustrative sidelight is the fact that in theocratic, Orthodox Israel, religious authorities—Christian and Muslim as well as Jewish—have

To begin the ritual of the *Get*, the *Bet Din* convenes to hear the cases presented by each side. At times, the *Bet Din* will recommend that no divorce be granted or that the couple seek psychological counseling if they have not already done so. However, more often than not the determination of true mutuality of the decision by both partners is the major factor that influences the decision of the *Bet Din* to grant the divorce.

Unlike Roman Catholic annulment proceedings, an application for a *Get* does not have to be preceded by a civil divorce. Obviously, a civil divorce is necessary for legal purposes in most countries, including the United States, and the *Bet Din* insists that one will follow if it has not already been sought. In a non-theocratic land, the *Bet Din* needs to ensure that civil law will provide the supplemental force necessary to maintain the agreed conditions of the *Get*. In Orthodox Judaism, a couple that obtains only a civil divorce is considered as still married. If the ex-wife remarries without having been divorced via a *Get*, her subsequent children are considered to be *Momzerim* (illegitimate), although any subsequent children of the remarried father are not, because the father's children putatively come from a known father. The children of the divorced mother may come from unknown fathers, according to tradition long antedating blood type and DNA studies.

Sometimes, Jewish men may refuse to give their wives requested religious bills of divorce. This is a rare problem, but in contemporary Britain those situations have created enough of a scandal to lead at least one rabbi to shame those men publicly from his pulpit and on the internet by posting their names on his synagogue's Web site.³⁰ Other rabbis are joining him in his crusade. Many of those shamed men use the enticement of a *Get* to extort large bribes from their wives before they will agree to allow the divorce. The wives may obtain civil divorces but they would

not be able to remarry in the Orthodox faith. Of course, they could remarry within a Reform or Conservative Jewish community, but doing so would usually create enormous intrafamilial and related social problems.

The wives whose husbands refuse to grant them *Gets* are known as *Agunot*, or chained women. Because of the wives' fears of the *Shandeh* that the Orthodox community will consider their future children as *Momzerim* if they result from subsequent civil, Reform, or Conservative marriages, they may have no recourse but to agree to the extortion in order to protect their children. *Momzerim* will not be allowed under Jewish law to marry anyone other than other *Momzerim* or converts to Judaism. They are not allowed to marry within the accepted Orthodox religious community.

In Britain, a support group, *Agunot Anonymous*, was founded to help the country's "chained women." According to *The Times of London*, "... about a hundred men and women chained themselves outside the office of the Chief Rabbi, Dr. Jonathan Sacks, in protest at the religious divorce laws. He announced earlier ... that an additional person would be appointed to his religious court ... to find a solution, but so far no loophole has been discovered ..."³¹

Except in ultra-Orthodox communities, the *Bet Din* usually has little to say about the disposition of the children of the divorce, other than paying strict attention to the regularity of the father's child support payments to the expected custodial mother. In Jewish law and tradition, the mother is considered to be the mainstay of the Jewish home. The pre-nuptial agreements, known to the *Bet Din*, demand that the ex-husband support the ex-wife and the children. The agreements indicate that most of the time Orthodox Jewish children will automatically revert to the woman's custody, as is also most common in secular divorce.³²

Traditionally observant fathers rarely fight for custody, although, given the rare situation of an Orthodox wife's infidelity, they might choose to fight. In that situation, or possibly others in which the father might also have increased rage and resentment against his wife, he may decide to fight for custody. Within the religious community, the mother's adultery or other grievous offense might result in the *Bet Din's* backing the father's claims, but these are rare instances. In such rare cases, the *Bet Din* generally examines quite closely the motivations for paternal

jurisdiction over marriage, divorce, child custody, and all people who live in or who even visit Israel, whether they are citizens or not. If they are divorced Jews, they are obviously safer having obtained a *Get*. The U.S. State Department has issued a warning: "In some cases, Jewish Americans who enter Israel as tourists have become defendants in divorce cases filed against them in rabbinical court by their American spouses . . . Jewish American visitors should be aware that they may be subject to involuntary and prolonged stays in Israel if a case is filed against them in a rabbinical court. This may occur even when the marriage took place in the U.S. and/or the spouse seeking relief is not present in Israel. Americans have been detained in Israel for prolonged periods while the Israeli [rabbinical] courts consider whether such individuals have sufficient ties to Israel to establish rabbinical court jurisdiction . . ."²⁹

custody in order to determine that the father's reasons are not solely financial or otherwise nefarious.³³ Automatic suspicion is the rule when Orthodox fathers demand custody.

If the *Bet Din* determines that the father is holding the mother hostage when she wishes a divorce, by stating to her his determination not to support her or the children if she sues for divorce, or by demanding an extortionate bribe for the granting of a *Get*, the rabbis may publicly shame the father. However, no American data are currently available to indicate that the shaming process is as stringent in this country as the *Times of London* indicated it is becoming in Britain.³⁴ Any and all shaming of the father may validate the mother but provides little solace for the child who, with the community, perceives the father as a villain and then may have no relationship with him at all.³⁵ Likewise, given only a civil divorce by the custodial parent, the child tends to lose considerable contact and support at the time it is most needed from family and friends within the Orthodox community.

In recent years, the Orthodox community's reaction to divorces that occur in its midst has changed. The recognition that divorce may not be the *Shandeh* it had formerly been considered has made life somewhat easier for both of the divorcing spouses, as long as the divorce was obtained via a *Get* as well as civilly. Within the generally tighter traditional communities, the conference of the rabbis allowing the divorce is seen to have examined the situation closely and to have made the correct determination.

The children of a *Get*-obtained divorce are generally seen as an increased community responsibility; according to the *Bet Din*, no adult or child in the community should reject them.³⁶ Another ancient Jewish tradition that no marriageable woman (or man) should remain unmarried for long also creates a hopefully supportive setting in which community forces may align themselves to complete the broken family by bringing in a new spouse.³⁷

Islamic Law, Divorce, and Child Custody

We in the Western world are long past the days when Islamic law and custom³⁸ represented exotic but negligible influences within our populations. In 1960, an estimated 100,000 Muslims lived in the United States. Today, Islam has more than six million adherents in the United States and is the fastest growing religion in this country. The remarkable in-

crease in the number of adherents to Islam in the United States and throughout the Western world has caused us to recognize its importance within our so-called melting pot.³⁹ Construction of mosques and Islamic centers has boomed throughout North America. The large number of immigrants from the Middle East represents a striking, attention-gaining presence.

Within the African-American population of the United States, the growth of adherence to some Islamic principles, practices, and identification has also created a new force within that community, although differences exist between the so-called "Black Muslims" and traditional, originally Middle Eastern Islamic practice. These differences are important to this topic because they affect divorces and the children. Elijah Mohammed, who founded the Nation of Islam (or Black Muslims) in the early 1930s, developed a theology and ritual different from traditional Islam. The two major branches of traditional Islam, Sunni and Shi'ite, practice reasonably mutually similar rituals and beliefs despite their historical and political differences. Now, after the deaths of Elijah Mohammed and Malcolm X, Louis Farrakhan heads the Black Muslims. Farrakhan has recently instructed his followers to follow more closely the traditional rituals and beliefs of Islam and "... to understand Islam in all its dimensions . . ."⁴⁰

Most traditional Muslims have considered the Nation of Islam to represent a bogus form of Islam. They reject its basic theology that teaches that Elijah Mohammed was the actual incarnation of the Prophet Mohammed. They further reject his statements that white people were created by a renegade black scientist, and that Adam, God's original human creation, was black. If a significant trend develops within the Nation of Islam to follow more traditional Islamic practice, many of its theological beliefs, rituals, and practices may change.⁴¹ Divorce and the disposition of children may become complex issues, even more than the situation that now exists among the Black Muslims, who take their divorces and custody battles to civil courts. In contrast, followers of traditional Islam, even in America, often do not take that route to the civil court house. The route they take may create obvious trends affecting the children. If the Black Muslims become more like traditional Muslims, their attitudes about the disposition of the children of divorce may then reflect more of the traditional Muslim protocols, possibly

creating some of the same trends affecting the children that will be described later in this section.

Traditional Muslim practice is also currently being shaken in America by a movement that threatens to divide Islam here. *Sufi*, as it is called, is a spiritual path emphasizing Islam's mystical inner dimension. It seeks inner knowledge gained by veneration of teachers and saints, meditative chanting, and other practices that both orthodox and American modernist Muslims reject as heretical.⁴² If, as some experts believe, the reaction against *Sufi* creates more traditional, fundamentalist practices in American Islam, many of the situations characteristic of middle eastern Islam will become even more commonly seen here, with definite strains on the American Islamic family.

Although the *Koran*, the Islamic scripture, calls for respect and, on occasion, even reverence toward women, especially mothers, the role of men in traditional Muslim life remains dominant to an extent that sometimes appears totally incomprehensible to contemporary Western minds. In the West, with its ongoing feminist revolution and demands for equal rights and respect, the concepts represented by Islamic law and tradition often appear quite alien. Much of what has been considered characteristic of Islamic thought and practice, however, is really not specifically Koranic but, rather, is cultural. It often reflects the attitudes of the middle eastern areas from which the religion arose and where it remains most prominent.

For example, many of the burdensome, restrictive aspects referable to Muslim women, supposedly attributed to Islam, are only theoretically and possibly distantly based on the *Koran's* statements that women are weaker and must be protected and even sequestered, as well as valued. Many Islamic authorities recognize such male-imposed attitudes as primitive attempts to maintain power over women who are kept uneducated and otherwise demeaned. It is necessary to understand the differences between actual Koranic doctrine on the one hand, and possibly power-based practices such as these on the other, when so many Muslims now live in the West where they marry and divorce, where they have children, and where they may fight over them.

Newspaper articles often relate tales of one or the other Islamic parent, usually the immigrant father, kidnapping the children. The father may take them back to his middle eastern homeland where his rights

are probably deemed paramount, more so via the national culture than by the *Koran*. If the mother flees with the children for fear of the father's abducting them, the mother and children usually go into hiding. Both situations, of course, are dreadful for the children. Nonetheless, custom may tend to stimulate its adherents to such occasional rash acts, especially when the adherents live in a Western community that perceives their laws, customs, and the practitioners themselves as so very alien.

Little intercommunication seems to develop between Muslim immigrants and their new Western neighbors, especially among the women. Newly transported followers of Islam tend to dwell in close-knit, extended family circles, and often they resist any penetration by Western influences. It takes little imagination to consider what a divorced Muslim wife must face in her society and in ours, isolated to such a great degree from most people who might otherwise be able to offer emotional or other support. The stresses on a Muslim single mother in America are enormous.⁴³ Ordinarily, she would lean on her own family for financial and emotional support, but if she has emigrated to the West with her husband, and if her family is "back home," there is little support for her to find here. Many immigrant Muslim wives have limited education, or if they have been educated, they may have limited capacities to seek gainful employment in Western society. The distant fathers provide some financial support, as dictated by Muslim tradition, but the level is ordinarily not high. According to Western standards, it may not even be barely adequate. At least relative poverty is inflicted upon many divorced Muslim wives and the children in their households. Without an active family or social support system available to the divorced immigrant Muslim mother in America, life becomes very hard.⁴⁴

Social welfare and law enforcement personnel involved in tracking fathers delinquent in support payments rarely have contact with the immigrant Muslim community because the frightened abandoned wives will not accuse their non-paying ex-husbands or shame them by complaining to secular authorities. Additionally, as will be seen, legally those men may not be ex-husbands because many simply divorce according to Islamic law, not civil law. The effects on the children reared by such single mothers can be awful, with anxiety levels high throughout the household.⁴⁵

In the Western world, regardless of any religious ritual practiced by any and all divorcing couples, a civil divorce is essential for the state to legally recognize and regulate a marital breakup. Regardless of the dictates of contemporary American law, however, many divorced Islamic couples are not legally divorced but divorced only via the Islamic code.⁴⁶ In American Islamic society, problems may well develop and the children become even more adversely affected than expected if these differing practices are not somehow reconciled.

According to Islamic law, divorce is an exclusive prerogative of the husband. The wife cannot institute a divorce, although she can work toward obtaining a *Khala*, an "undoing" of the marriage. This concept appears to be unique to Islamic law and differs from either annulment or divorce in several ways. First, it requires a mutual decision on the part of both marital partners, whereas divorce in Islam is a strictly unilateral procedure requiring no consent by the wife. Second, the wife may have to make compensation to the husband in this procedure. Sometimes that takes the form of an actual bribe in order to get the husband to agree to the undoing. If the immigrant Muslim wife has little if any independent income from which she can make such payment, her overseas family is the usual but often unavailable source. Finally, the *Khala* is a final, irrevocable process, unless both partners wish to undo the undoing and reconcile.

Some Islamic schools of jurisprudence, however, do not accept the concept of reversibility of the *Khala*. In contrast, in a full-fledged Islamic divorce, the husband can unilaterally take his wife back after 100 days following his unilaterally declaring that they are divorced, even without her consent for either the divorce or the supposed reconciliation. The 100-day minimum is necessary in order to determine whether the wife is pregnant. It also prevents her from marrying someone else unless the absence of pregnancy is certain.

The oral tradition of Islam allows the statement by the husband to the wife, "You are divorced," to validate the divorce automatically on the spot. Islam's permission to reconcile twice (each time after the 100-day barrier) tends to mitigate against the possible impulsive act of unilateral divorce, but after a third divorce the man cannot reconcile with his ex-wife unless she has remarried and has been divorced by a second husband. One must wonder how often such convenient second husband marriages may oc-

cur in order to be able to return to the relationship with the original spouse. Obviously, no statistics are available about this, especially from a culture as isolated from mainstream American procedures and practices as this one. Moreover, one must wonder what such transfers within the family relationships do to the children who are part of the immigrant Muslim community, yet who live and attend school in a Western culture that neither understands nor condones these practices.

Marriage in Islamic countries are usually arranged relationships, often without either partner having any knowledge of the other, and often occurring at very early ages. Recently in the United States, several Muslim men were arrested for child molestation when they had actually married prepubescent girls according to Muslim tradition. The girls had just been brought to the United States to fulfill the marriage contracts prepared overseas long before.⁴⁷ It is notable that a second generation American Muslim turned in these men to legal authorities. Americanized Muslims obviously recognize American laws and mores far more than do recent immigrants, and the Americanized group make considered efforts to walk a fine line, but there are now more immigrant than American-born traditional Muslims in the United States.⁴⁸

Islamic legal authority also holds that a married male child is incompetent to divorce until he reaches the age of puberty, whether or not he is capable earlier of truly recognizing the meaning and effects of divorce. Another school holds that a boy below the age of 10 can legally divorce his wife if he is smart enough to recognize the meaning and consequences of that act. Of course, a female child is always incapable of divorcing, as is a female adult.

These regulations, so strange to the Western mind, at least do not cause us to worry too much about custody battles. However, social welfare authorities have little idea of how often child marriages may occur within the closed immigrant Muslim communities. Likewise, of course, they have no knowledge of how often these children become divorced according to Muslim tradition. The celebrations and associated rituals dealing with these practices are said to be announced only within the communities, and usually little publicity about them reaches Western ears.

In Islamic law, custody is a concept related to the capacity for nursing and taking care of the immediate

needs of the child. That responsibility rests with the mother in most cases, unless the religious court or the local *Imam*, the ecclesiastic authority, determines that she may be unfit. Generally, the mother will have residential custody of the children and will see to the children's care, education, and medical services, usually as dictated by the father. He has legal custody of the children and is actually their legal guardian. He has full responsibility for their welfare in every non-emergency matter, and he makes choices regarding the children's education and non-emergent medical care. The mother must abide by the father's choices. The father can also sign marriage contracts for his children, regardless of their ages. The mother is simply a loving caretaker, and it is possible that she can lose that position as well if she remarries and the ex-husband determines that he wishes to take the children.

Visitation by the noncustodial parent, that is, the father, is simply not a problem that creates controversy. Under Islamic law, the father can see his children at any time, and often there is an expectation that the father will see the children daily in order to supervise their discipline and to teach a trade to his sons. Visitation procedures, as prescribed in the few Western civil divorce proceedings affecting Muslim families, are often ignored.⁴⁹ The divorces may be respected, the instructions disregarded. In practice, the fathers usually spend more time visiting with their sons than with their daughters. Most schools of Islamic jurisprudence state that male children are to remain in their mother's custody until they are prepubertal (some say until they are seven or nine years old), and then they will revert to the custody of the father. Girls will stay with their mothers until they begin to menstruate or, according to other Islamic jurisprudential opinion, until they can begin to experience pleasure in sexuality. Then they will stay with the father and his family until they get married. The father and his family are deemed to be the girls' best protectors against the seemingly constant possible threat of sexual violation. In those cases in which kidnappings by the father occur, the children involved are usually male. If they are female, they may have already been promised by the father in marriage to equally young male children still living in the Middle East.

One particular sticking point is the right of the mother to gain access to her children once the father has assumed physical custody and has taken the chil-

dren to his home. If the father's home is across the seas, international court disputes provide little encouragement for mothers. If the father's family is in the same Western country as the mother, there may be a chance that civil law may force the allowance of visitation, although the forbidding of such visitation on religious grounds is a very rare phenomenon in any event. More often, it is based upon the same angry, resentful sources as in other cultures, which are seen so frequently in our society and in its courtrooms. In middle eastern cultures, even when shifted to the United States, the force represented by angry Islamic fathers is generally overwhelming to that minimal power manifested by the divorced mother.

Conclusion

Despite any doctrinal or other differences among disparate cultural, religious, or ethnic groups, the underlying feelings giving rise to the dissolution of marital bonds and to battles for the children may be seen as reasonably similar throughout the world. The feelings such as rage or defensiveness that universally give rise to custody and visitation battles, however, may be emphasized and accentuated by the tenets of the specific religious doctrines to which the battling parents adhere. The parents' untenable underlying emotions may be masked by those same doctrinal tenets. The combatants cling to religious doctrines at times so as not to have to face those underlying factors.

The forensic psychiatrist or other mental health expert who becomes involved in dealing with difficult divorces or custody or visitation battles will always need to look beneath a number of cultural carpet corners to see the underlying dynamics swept there. Those universal feelings of anger, hurt, and betrayal are givens, whereas the actual religious or cultural distinctions may represent significant barriers beyond which helpful counselors may or may not be able to go. If the counselors are able to get to the underlying emotions with the parents, better chances develop of resolving the disputes without the need for destructive court trials. But that goal is made much harder to reach if the forensic expert lacks the knowledge or the appreciation of the religious beliefs of the parents who may hide behind them. Furthermore, the forensic psychiatrist may be ignorant of the beliefs of whatever clergyperson or pastoral or lay counselor may have emphasized those feelings (or their own feelings) and stiffened the defensiveness of one or both parents. Historically, most mental health

experts called into the custody and visitation arena have ignored those aspects.

In our country's "melting pot" heritage and tradition, we must recognize all of these varied cultures and traditions as part and parcel of an increasingly heterogeneous whole. Religion and/or religiosity and/or spirituality have become increasingly important aspects of American life. This trend may represent a pendulum swing, but as John Updike observes: "Faith is not so much a binary pole as a quantum state, which tends to indeterminacy when closely examined . . ."⁵⁰ It is usually there, often despite the denial of the supposed non-believer. It might also be present in forms uncharacteristic of more familiar religious doctrine or belief. Most of the time it exerts significant influence, and it must be respected and understood.

Only by understanding the people who practice their beliefs within the various cultures and religions seen in our country, or for that matter without those various cultures and religions, can we provide realistic and practical help for their children when divorce intervenes in their young lives. To understand them, forensic psychiatrists and any other mental health experts called in to evaluate bitterly fought custody and visitation battles must immerse themselves in the knowledge of the religious, moral, spiritual beliefs of the combatants. They must then determine how much those beliefs influence the judgments of the battling parents and possibly affect the dispositions and futures of the children.

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