inadequacy of the index must be rectified. If one is foolish enough to lose one's place, finding the reference again demands research skills, considerable time and a cool and equable temperament.

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The State, the Law and the Family: Critical Perspectives, edited by M. D. A. FREEMAN, Professor of English Law, University College, London. (Tavistock Publications, London, 1984), pp. i-ix, 1-318, with Table of Cases, Table of Statutes, Name Index and Subject Index. Limp recommended retail price $21.95 (ISBN 0 422 79080 X).

This collection of papers is the product of a workshop on family law held by the London Institute of Advanced Legal Studies in July 1983. Matters canvassed include maintenance, domestic violence, child protection, and conciliation, and at a meta-level paradigms such as public/private, State/family, and patriarchy/equality enter the analyses.

In a paper entitled "Resolving Family Disputes: A Critical View"[1] Bottomley challenges some of the fundamental assumptions underlying the discourse on conciliation:

> [f]irst, is there equality of power in the relationship between the parties, and between the parties and the mediator? . . . Second, despite the presentation of the mediator in terms of neutrality and objectivity the mediator may be the purveyor of a particular pattern of beliefs that would tend to favour a particular 'resolution' to which the parties give their formal agreement.[2]

Bottomley's concerns may be counterpoised by a reading of Gerard's preceding paper, "Conciliation: Present and Future".[3] An adherent of the conciliation process, Gerard leaves the reader with the impression that a big brother approach is an inherent and desirable aspect of the conciliator's role and function. For example, consider the following extract from her paper.

> What happens if . . . the parties reach an agreement not in the best interest of the child? Personally, I find it difficult to envisage a situation in which parents could make such arrangements under the eyes of a conciliation or welfare officer. He/she would undoubtedly express views concerning the child's welfare in a way the parties can understand and accept.[4]

Eekelaar and Maclean in their paper, "Financial Provision on Divorce: A Re-appraisal"[5] undo the myth of "alimony drones" and destroy claims such as that "the relationship between divorce and financial provision" is "essentially a unitary phenomenon" and that "a single policy should in principle be applicable to "the" problem of financial provision on divorce".[6] What fortifies and simultaneously distinguishes their contribution from some others in this anthology is their hard worked analysis of available empirical data together with the use of their own empirical research base. They conclude that divorced parents with dependant child/ren experience differential and inferior economic consequences than divorced parents without children, and that divorced single female spouses with child care responsibilities constitute the worst-off group.[7]

Empirical research is the hallmark of another paper by Eekelaar, and Dingwall, "Rethinking Child Protection".[8] At stake here is the thesis put forward by the 'rights for children' lobby that "social services are an increasing threat to family life".[9] However, in a credible analysis of cross-sectional data, Eekelaar and Dingwall persuasively conclude that "care agencies have [not] been running riot in the post-war period".[10] The authors then proceed to distinguish their position, reflected in their book *The Protection of Children,* from the new child-saving ideology, in particular by criticising the empirical foundations (or lack thereof), and theoretical framework of the 'family autonomy' position:

> [c]hildren's rights are identified with a parental right to freedom from state supervision on the basis of an assertion that children have a right to develop and maintain unconstrained psychological ties with their parents . . . In fact, this is not a theory of children's rights at all so much as a political theory about the proper relationship between families and the state. A theory of children's rights would actually need to express claims that enhanced their interests as a matter of principle rather than coincidence.[11]

The theme of too much State intervention is also taken up by Colvin in her paper, "Children, Care and the Local State":[12]

> [t]here are undoubtedly too many children in care and the increase in number over the past two decades appears to reflect a complacent acceptance of the role of the 'benevolent' state in child care.[13]

Colvin's interpretation of the relevant statutes and statistics is not as persuasive as that of Eekelaar and Dingwall for at least two reasons: first, her use of statistics is limited to inferences from absolute figures; second, she fails to put her argument within a contemporary and comparative time frame in relation to children in care.

Similarly, King's "Child Protection and the Search for Justice for Parents and Families in England and France"[14] lacks rigorous analysis. In the end he calls for:

> [a] complete shift of emphasis . . . away from the accusational legalistic approach towards a child care system that attempts to involve parents and other members of the family in planning for the future well-being of their children . . . [15]

It is difficult to see how King's proposed resolution to what he perceives as the State's "powerful bureaucratic machine . . . totally dominating the relationship between children and their families"[16] can be served by a

provision that the State's agents remove their judicial caps and instead don those of conciliators.

King fails to critically examine why the institution of the family yet needs either the props of a court-based child care system or alternatively, the support of conciliation merchants in the system he proposes. Arguably, either scenario undermines the singularity of King's basic axiom, namely, that the family is the best environmental site for children.

Where King is short on theory and a conceptual framework, Land and Smart, among others, are not. Smart and Land canvass the issue of a woman's claim to maintenance from her husband once the marriage is ended in two separate papers respectively: "Marriage, Divorce, and Women's Economic Dependency: A Discussion of the Politics of Private Maintenance" and "Changing Women's Claims to Maintenance".[17]

The most recent legislative catalyst for such discussion in the United Kingdom is the enactment of the Matrimonial and Family Proceedings Act 1984 which reduces a woman's claim to income support from her ex-husband.

Neither author is concerned to analyse or to argue the merits of this form of economic support merely within the confines of the private law of marriage. Rather, in a mode of the long term, they flesh out the basic elements of the real paradigm within which income maintenance, including maintenance on divorce, operates. Their analyses rest on two axioms. First, all individuals rely on one (or a combination) of three main income maintenance systems namely, the State (in this context social security and taxation law and policy), marriage, and the labour market. Second, these three systems are inter-related and inter-dependent and their function and operation is underpinned by the State's laws and policies on each. Access and hence dependence on each of these support systems is markedly differential according to an individual's particular gender in our society. Attempts by the State to achieve economic equality between women and men *qua* marital status cannot be successfully isolated from similar efforts to improve women's access to the labour market and State income assistance.

One example of the State's use of the interplay between the income maintenance systems is given by Land:

> men have greater access to state benefits than women although the eligibility rules and levels of benefits to which they are entitled continue to be constrained by *the desire to maintain their incentives to take paid employment.* In contrast, women are expected to rely on their families for support, in particular their husbands. The conditions under which women, particularly married women, can claim maintenance from the state have been determined *not by a desire to sustain their incentives to take waged work but by a concern that they will continue their unwaged work of caring for their families.*[18]

Again the State chooses to confine its changes to family and marriage policy to reforms of *private* family law. The *appearance* of improvement is most useful to the State with a vested interest in maintaining women's activities as unpaid careers in "precedence over their activities in the labour market". As Land points out, the English Law Commission was confined in its reference on the financial consequences of divorce to investigate proposals

for change to the private law governing the obligations between spouses.[19] Changes to present family law "alone can do little to improve access to jobs and wages in practice".[20] Again, since family law does not extend to single parent families, "[t]he Law Commission . . . acknowledged that it did not think there is any real dispute that the most serious problems faced by the majority of single parent families are caused by economic factors and that changes in the private law can do little if anything to alleviate the hardship and deprivation they experience".[21]

To emphasise the short sighted policy of reducing men's private law maintenance liability and at the same time not increasing expenditure on the welfare state or women's labour market opportunities, Smart refers to the results of her survey in Sheffield (1984) of magistrates courts. She found that generally speaking the magistrates' were in favour

> of reducing husbands' liabilities but against increasing public sources of income maintenance. Clearly the women magistrates expected wives to work for a living. They were perhaps unaware of the difficulties facing working class women with children looking for work in a climate of severe unemployment. But the men magistrates were particularly interesting because although the majority did not think men should pay maintenance as a life-long commitment, neither did they think women should go out to work; nor did they think state benefits should be increased. This of course raises the question of how women can get any kind of income to live on at all.[22]

Smart also points out the chicken and egg of the remarriage argument:

> [i]f reasonable state benefits are withheld from women who are divorced or separated; if ex-husbands' liabilities are to be gradually eroded; and if women's wages or opportunities to engage in waged work continue to be limited, only one method of economic survival presents itself.[23]

As a worker and custodial parent a woman is effectively restricted to accessing the marriage income system in order to

> repay her keep in kind (i.e. housework, childcare, sex) . . . But whilst remarriage appears to be a short-term solution to the poverty of single parent families, it does nothing to address the underlying problem of women's economic dependence on men which fosters that poverty.[24]

Land highlights the different character of income depending on its source:

> [i]mproved access to the labour market is also important because wages are regarded differently from money received from the state or the family . . . Whatever the ideological basis for distinguishing between money received from employers, the state, or family, in practice there are fewer strings attached to wages . . . The state and the family, mainly husbands, can and sometimes do [determine how money given to the recipient is spent] and if it is being 'mis-spent' may withhold it.[25]

In addition to the editor, and the authors considered above, further contributions to this collection are made by Clive, Deech, Levin, Maidment, Masson, O'Donovan, Pahl, Rood-de Boer and Szwed. This review has been an attempt to identify some of the issues and themes in the anthology. The papers do not reflect a uniform analytical approach nor a unanimous ideological position. Indeed the protean quality of the text taken as a whole

is precisely what constitutes it as a good primer for the as yet to be developed discipline of family policy.

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FOOTNOTES

1 Ch. 18.
2 *Id.*, 295.
3 Ch. 17.
4 *Id.*, 284.
5 Ch. 13.
6 *Id.*, 209.
7 *Id.*, 220.
8 Ch. 6.
9 *Id.*, 93.
10 *Id.*, 101.
11 *Id.*, 104.
12 Ch. 7.
13 *Id.*, 115.
14 Ch. 9.
15 *Id.*, 154.
16 *Id.*, 139.
17 Chs 1 and 2 respectively.
18 Ch. 2, 25.
19 Similarly, the terms of reference on matrimonial property division during and on the breakdown of marriage currently being undertaken by the Australian Law Reform Commission are confined to recommendations for any changes to the Family Law Act. Consequently the usefulness of the reference to women with parenting responsibilities may be extremely limited in redressing the economic imbalance between mothers and their husbands [*sic*].
20 *Id.*, 33.
21 *Id.*, n.15.
22 Ch. 1, 19.
23 *Id.*, 21.
24 *Ibid.*
25 Ch. 2, 25.