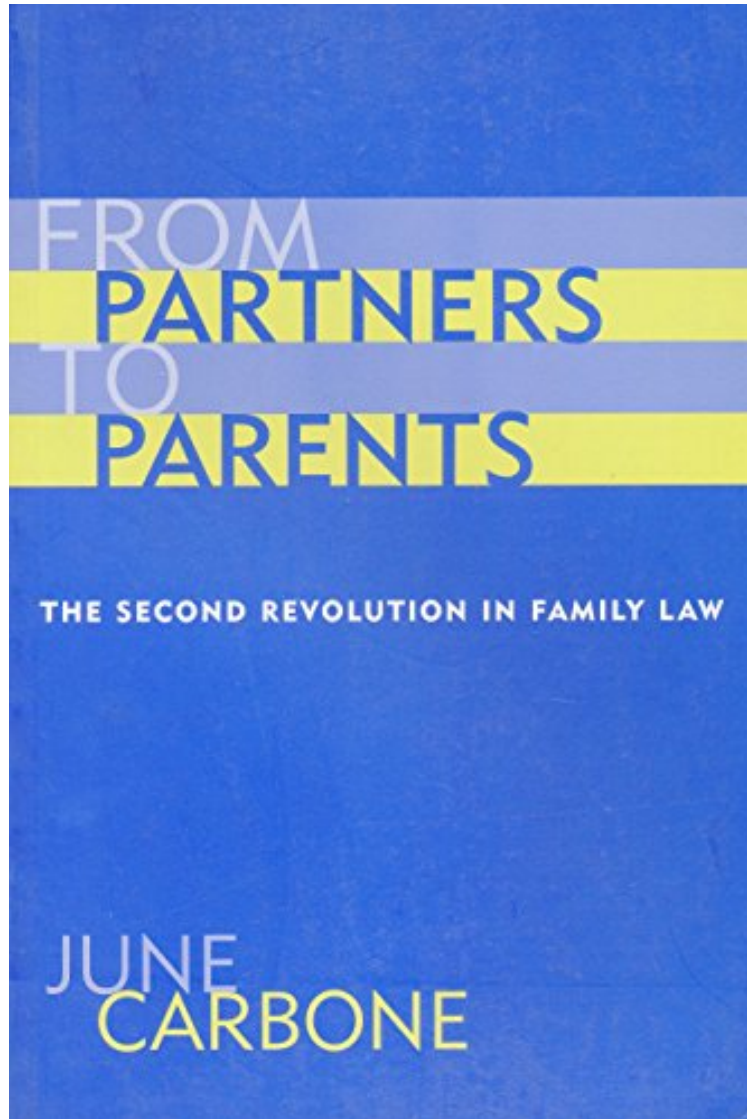


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From Partners to Parents

June Carbone

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June Carbone : From Partners to Parents before purchasing it in order to gage whether or not it would be worth my time, and all praised From Partners to Parents:

10 of 10 people found the following review helpful. excellent overview to the changing familyBy Jason L. McDonaldAs an intellectual divorced father, I have long searched for that one book that gave the "view from 60,000" feet of what has changed in the American family, and why family law and social policy is (as schizophrenic) as it is. This is the book.Professor Carbone overviews first the philosophical divide among economists, feminists, and others as to the "driving forces" within marriage, divorce, and post-divorce relationships. She then looks at the empirical

evidence of how the family has actually functioned since the 19th century, and how it has changed since the 1960s (especially in the face of abortion, no fault divorce, and changed social mores that made single parenthood permissible). Finally, she discusses the legal revolution that has moved the relationship between parents and children to center stage, as it has removed the relationship between husbands and wives. Professor Carbone's most important service to the family law community is that this is an impartial book - it is neither a militant feminist diatribe about "patriarchy," nor a Christian values diatribe about the "decline of the family," nor a father's rights diatribe about how the system "works against" fathers. Particularly in the fact that she brings to light the work of economic science in explaining the perverse incentives that encourage divorce, she has done the whole community a favor. It is a centrist work that explains the explosion in divorce and single parent families in the changing economic/social structure and the changed legal environment due to abortion-on-demand and no fault divorce. The book has a massive bibliography and does an excellent job summarizing the available scholarly literature, on all sides of the debate. Her central thesis is that the centrality of the "marriage contract" between man and woman has been replaced by the centrality of an irrevocable contract between parent and child. The law now looks to fathers (or the high-earning, non-custodial parent) to guarantee minimum child income; and to mothers (or the low-income, custodial parent) to guarantee food, clothing, and shelter for their children. These responsibilities can be transferred to others (via adoption), or revoked by the state, but they cannot be abrogated by the parties themselves. Child custody thus replaces fault as the central legal and emotional nexus of divorce, and the "no fault" cancel-upon-will nature of marriage is not replicated within the parent/child bond. Marriage is temporary; parenting is forever, sayeth the law. Seen in this context, much of present-day family law makes sense. Spousal support, or "alimony" becomes of greatly decreased relevance, since the marriage contract extends only within the life of the marriage. Community property "makes sense" because of the marriage partnership, and the dissolution of community property becomes more important than alimony...Most importantly, because children now have rights, it "makes sense" that the adults cannot bargain away their "child support." Because children are not competent to spend money, it then makes sense that the custodial parent becomes "trustee" of this money, with all the societal conflict and complications that this implies. And because children are "emancipated" at age 18, it makes sense that child support terminates at that age: for rich children, this means (to paraphrase a famous court decision), millions for Barbies, but not a penny for college. Child support and child custody become the central focus of conflict, family law, and family politics. This masterful overview has its failings, however. First, it is unclear whether some of the social changes - abortion and no-fault divorce, for example - are the cause or consequence of changes in societal values. Professor Carbone dangles the possibility in front of us that these are the "consequences" of value changes, and not the "causes," but she is unable to explain convincingly the chain of cause and effect between the legal revolution of the 1960's and today's distressing and distressed post-divorce family. Yet this causality is fundamental - because if legal changes are the cause of the explosion in divorce and single parenthood, then changing the law may be able to reverse trends and foster a better environment for our children. But if the law merely reflects economic and societal change, then proponents of change need to spend less time lobbying and more time attempting to change society and its values. I wouldn't fault her for not solving this puzzle; but it is surely the most important puzzle to solve. The second oversight in the book regards the law itself. If you are looking for an in-depth analysis of family law, this book is not for you. The book is more a synthesis of law with social science, than it is a legal discourse. The book's greatest strength, therefore, is also its weakness: by planting the changed law within the context of our changed society, Professor Carbone helps the reader to understand why family law is what it is. Yet because of this context, the book doesn't really explain the law on its own terms. A third fault within this otherwise excellent book is one common to many books (and perspectives) of the legal caste. The book fails to distinguish between what the law "says" is supposed to happen, and what actually happens. It is common knowledge within the father's rights community, for example, that mothers have a disproportionate claim to child custody and that custody laws are only rarely enforced. Similarly, it is common knowledge among the feminist "child support" community, that the most aggressive enforcement of child support concerns AFDC mothers, due to the state's material interest in reducing welfare costs - non-welfare child support is much less likely to be subject to state enforcement. The law on paper, therefore, only crudely approximates what really happens to men, women, and children. Finally, Professor Carbone concludes the book with a plea for cooperative parenting and for legal recognition that today's family is not the same as it was in the Victorian ("patriarchal") past. Yet, here again, the problem is whether law is a cause, or a consequence of social change. Professor Carbone charts the steady deterioration in child welfare since the "divorce revolution" of the 1960's, and one can only wonder whether we are at the end or only the middle of the cost to children brought about by their parents' search for self-fulfillment.

Examining the substantial changes that have occurred in families, family research, and family law over the last twenty years, this volume describes a paradigm shift in the legal and social regulation of the family from an emphasis on partners' relationships with each other to an emphasis on parents' relationships to their children. In this model, custody has replaced fault as the most important determination made at divorce, and marital status is supplanted by financial and emotional maturity as the indicia of responsible parenthood. The most significant remaining challenge, according

to June Carbone, is the need to remake the relationship between adults in such a way that it makes fulfillment of their obligations to children possible. Carbone's broadly interdisciplinary approach, drawing on economics, law, philosophy, and feminism as well as references to popular culture, from *Doonesbury* to *Grace Under Fire* serves as an intellectual survey of family research and of the major theoretical approaches to the family. She evaluates historical, sociological, and psychological research to show how family change is part of a long-term response to changing industrial organization, and to assess the impact of changing family form on children.

Describes a paradigm shift in the legal and social regulation of the family from an emphasis on partners' relationships with each other to an emphasis on parents' relationships to their children. (Family Therapy) About the Author June Carbone is a professor of law at the Santa Clara University School of Law.