

Delaying Divorce: Pitfalls of Restrictive Divorce Requirements

Journal of Family Issues

1–29

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DOI: 10.1177/0192513X14566620

jfi.sagepub.com



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Abstract

A period of separation is a ground for divorce in some countries. During this waiting period, some parents live apart in two separate residences, while other parents live apart in one residence. In this article, I examine the experiences of fathers who remain living in the same residence as their former partners and the experiences of a number of fathers who had to move out of the family home and live in a separate residence after the decision to separate. The findings show that restrictive divorce policies that delay divorce potentially create a situation of prolonged boundary ambiguity which complicate the process of renegotiating boundaries between parenting and former spousal relationships on divorce. The article argues that for a sample of divorced fathers, the policies that require a prolonged waiting period relate in some way to issues of unclear boundaries.

Keywords

divorce/separation, dyadic relationship/quality/satisfaction, family law, family policy, father–child relationship

Divorce remains an important issue, especially in Catholic-based societies and societies where the evangelical movement among fundamentalist Christians has taken hold. Some scholars in the United Kingdom (Morgan,

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2000) and the United States (Blankenhorn, Bayme, & Elshtain, 1990; Etzioni, 1993; Popenoe, 1993) consider the rising divorce rates as evidence that individuals are selfish and lacking family values. Religious organizations have actively sought to reinforce social norms regarding the special role of marriage by buttressing the legal framework regulating marriage and divorce (Lewis, 2001). There is ongoing debate about whether legal measures can help save the institution of marriage and lower divorce rates. The introduction of covenant marriage contracts in the United States, a form of marriage contracts available in Louisiana, Arkansas, and Arizona, is an example of the influence of some Christian groups on the domestic relations law in the United States (Cade, 2010; Musselman, 2009; Sanchez, Nock, Wright, & Gager, 2002). These state legislatures raised the requirements for entering and exiting a marriage with the intention of strengthening the institution of marriage (Cade, 2010; Spaht, 2003). Although modern societies tend to be secular, the United States and Ireland are more religious than most other comparable, affluent postindustrial societies (Inglehart & Norris, 2003). Covenant marriages, like marriage contracts in many predominantly Catholic societies, have heightened the requirements for exiting a marriage. However, little is known about the consequences of stricter divorce requirements for parents and families.

Research Question

By drawing on the experience of a group of separated fathers in Ireland, a country which has stringent requirements for exiting a marriage, this article explores how requirements that delay divorce influence the renegotiation of the boundaries between parents and former spouses on divorce. Few studies examine how the law influences successful renegotiation of the boundaries that define ex-spousal and coparental roles during and after divorce. The research question in this article therefore examines how restrictive divorce policies that delay divorce by up to 5 years influence families to renegotiate boundaries between parenting and former spousal relationships on divorce.

Boundary Ambiguity in Divorced Families

A family systems perspective “emphasises the importance of renegotiating relationships boundaries after a divorce at the dyadic level between former spouses” (Madden-Derdich, Leonard, & Christopher, 1999, p. 589). Boundaries are the explicit or implicit rules that define the structure of family relationships (Minuchin, 1974). Boundary ambiguity, which has its origins in family stress theory, refers to “a state when family members are uncertain in

their perception of who is in or out of the family or who is performing what roles and tasks within the family system” (Boss, 1987, p. 709). In the context of divorce, boundary ambiguity is conceptualized as an individual’s inability to redefine and reorganize family structure in a way that clearly removes the former partner from the spousal role. Research evidence indicates that boundary ambiguity is a barrier to postdivorce adjustment (Emery & Dillon, 1994; Madden-Derdich et al., 1999; Stewart, 2005). Boss, Greenberg, and Pearce-McCall (1990) described how high-boundary ambiguity occurs in situations where there is (a) physical absence accompanied by psychological presence or (b) physical presence accompanied by psychological absence. Boss et al. (1990) found that in the case of divorce, the more an ex-spouse keeps the other ex-spouse psychologically or physically present, the higher the anxiety and the greater the family and individual stress and the greater the boundary ambiguity.

Divorce studies examining boundary ambiguity have not investigated how the legal process and the time required before one obtains a divorce may influence boundary ambiguity. This is a clear omission, given that the evidence on boundary ambiguity indicates that the sooner the ambiguity is resolved the more quickly the stress produced by the change should subside. It is argued that “holding a system in an ambiguously bounded state blocks cognition as well as the emotional and behavioural responses that begin the family restructuring processes” (Boss et al., 1990, p. 5). While research has examined how emotional intensity, financial strain, satisfaction with parenting perspective, and custody predicts boundary ambiguity in the former spousal relationship (Madden-Derdich et al., 1999) for both mothers and fathers, there is less understanding of how divorce policies affect boundary ambiguity. While recognizing that a clear agreement about legal custody could assist parents with establishing boundaries, Emery and Dillon (1994) argue that the law cannot address many important boundaries in the coparental relationship. This research examines the way in which the law, specifically divorce policies that prolong divorce, influences parents’ ability to redefine the boundaries of parenting and the impact on family boundary ambiguity.

Emery and Dillon (1994) argued that divorced parents and the parent-child-parent triad typically benefit when boundaries are somewhat distant, formal, and rigid. Research evidence has shown that failure to establish such boundaries is a major source of postdivorce conflict (Madden-Derdich et al., 1999). It is further described that “renegotiating and establishing boundaries following a marital separation is difficult as there is a great deal of uncertain normative expectations, intense and painful emotions, incompatible desires, limited communication and loyalty dilemmas” (Emery & Dillon, 1994, p. 374). Much of the research on boundary ambiguity and conflict is focused on

the period following the divorce, in a context where divorced families are characterized by shared relationships and not a shared residence. Few studies have examined boundary ambiguity in divorcing families, at the earlier stages of marital separation, which may be characterized by shared relationships and shared residences. As such, there is less information on how parents renegotiate emotional boundaries when they are unable to renegotiate physical boundaries.

Delaying Divorce

A comparison of European Union member states' laws on the grounds for divorce (see Table 1) helps identify the idiosyncrasies of Catholic societies (Group 3), and provides a sense of the kinds of regulation applied in different societies. As can be seen in Table 1, actual separation is not a ground for divorce for countries in the first group ("liberal" countries), but a 6-month period of consideration is required. For countries in the second group ("moderate" countries), factual separation is not a ground for divorce but it is evidence of another ground for divorce, that is, irretrievable breakdown of a marriage. In such countries, if a couple agree to divorce, the period of separation is minimal, usually 1 year. If a couple does not agree, the requirement of separation to demonstrate "irretrievable breakdown" is extended and 3 years of separation may be required. Some more conservative states are tough on divorce; for example, irretrievable breakdown is not an acceptable ground for divorce for covenant marriages in the United States. (Sanchez et al., 2002). In order to terminate a covenant marriage, the couple has to agree to an extended, monitored legal separation before divorce and they are required to attend marital counseling sessions before a divorce can be granted (Cade, 2010).

Actual separation is a ground for divorce for countries listed in the third group ("conservative" countries). Ireland, Malta, and Cyprus require the longest periods of separation before a couple can divorce, even if there is agreement. Although irretrievable breakdown is a ground for divorce for many of the countries in this group, coupling this with a requirement for an extended period of separation makes divorce more difficult. Although couples living in Louisiana, Arkansas, and Arizona may choose which contract to enter into when marrying, couples living in any of the countries in Group 3 do not have the same option.

Given the concern with rising divorce rates in the United States, researchers have considered whether the divorce rate can be lowered by legislation which makes marital dissolution more difficult to obtain (Amato, 2001; Olivas, 2004). Olivas (2004) found that prolonging a marriage in situations where reconciliation is unlikely to occur often aggravated discord and led to "a new contentious

Table 1. European Union Member States Laws for the Grounds for Divorce.

	No ground required	Mutual consent (Ground 1)	Irretrievable breakdown of marriage (Ground 2)	Fault (Ground 3)	Factual separation (Ground 4)
Liberal (Finland, Sweden, Netherlands, Slovenia, Estonia, Slovakia, Poland)	No ground is required, but a 6 months consideration period is required in all cases (FIN, SWE)	Yes (Estonia)	Yes (Sole ground; NLD, SVK, SVN, POL)	No (but divorce is not possible under Ground 2 if the guilty spouse applies for divorce and the nonguilty spouse does not consent; POL)	No (but relevant to establish Ground 2; NLD)
Moderate (Denmark, France, Germany, Austria, Belgium, Lithuania, United Kingdom, Italy)	If one spouse opposes the divorce and/or if the spouse has custody of children under 16 years (SWE)	No (but consent establishes Ground 2; NLD)	Yes (AUT, UK)	Yes (DNK, LIT, AUT, BEL, FRA)	Yes (1 year; LIT)
		No (but consent and a year separation of 1 year establishes Ground 2)	Yes (sole ground; CZE, HUN, GER)	No (but e.g., adultery is a presumption of Ground 2; CZE, UK)	Yes (2 year; BEL, FRA)
		Yes (sole ground; ITA)		Unreasonable behavior and desertion presumption of Ground 2 (UK)	Yes (a separation of 6 months is required if the spouses agree; DNK, AUT, CZE) In the absence of disagreement, a separation of 2 years (DNK) or 3 years (CZE, GER)

(continued)

Table 1. (continued)

	No ground required	Mutual consent (Ground 1)	Irretrievable breakdown of marriage (Ground 2)	Fault (Ground 3)	Factual separation (Ground 4)
Conservative (Ireland, Spain, Portugal, Greece, Latvia, Luxembourg, Malta, Cyprus)					No (but a separation of 2 years with consent establishes Ground 2. A separation of 5 years is required in the absence of agreement; UK) No (but a separation of 3 years establishes Ground 2; ITA) Yes (1 year if agreed, 3 years if no agreement; PRT)
		Yes (PRT, LVA, GRC; LUX)			3 years (LVA, LUX) 4 years (MLT, IRE) 5 years (Cyprus) Separation period of 1, 2, or 5 years is required depending on circumstances (ESP)

Note. FIN = Finland; SWE = Sweden; NLD = Netherlands; SVK = Slovakia; POL = Poland; DNK = Denmark; AUT = Austria; BEL = Belgium; FRA = France; LIT = Lithuania; CZE = Czechoslovakia; ITA = Italy; HUN = Hungary; GER = Germany; UK = United Kingdom; PRT = Portugal; LVA = Latvia; GRC = Greece; LUX = Luxembourg; MLT = Malta; IRE = Ireland; ESP = Spain.
Source: Data collected from Family Law Diploma Lectures, Law Society of Ireland, 2007 and European e-Justice Portal (https://e-justice.europa.eu/content_divorce-45-en.do).

divorce and complicated settlement negotiations.” It was further argued that “a statute that lengthens the process raises the financial costs and increases the acrimony between the parents, which is counterproductive” (p. 793). During the waiting period, residential, financial, and parenting arrangements are not regulated. Olivas (2004, p. 791) described how during this period “the lives of everyone involved are on hold.” Any delay increases the danger that parents will manipulate each other and disagree for an extended period. Scholars argue that making divorce more difficult to obtain is likely to (a) increase conflict and (b) perpetuate the conflict between high-discord couples (Amato, 2001; Olivas, 2004). In addition, this article argues that delaying divorce may also prolong boundary ambiguity and create more uncertainty about who is performing the roles and tasks in the family system. Amato (2001) concluded that divorce should be facilitated for high-discord couples. Exploring the pitfalls of restrictive divorce requirements empirically affords a perspective on the experience of separation that may help policy makers.

Context

The research took place in a state which has a long history of protecting and strengthening the institution of marriage. Divorce in Ireland is tightly controlled and the requirements for exiting a marriage are extremely restrictive (Ward, 1995). The conditions or grounds for divorce under the 1996 Act are as follows: (a) separation for 4 years, (b) no prospect of reconciliation, and (c) proper provision for the children and the other spouse.¹ The court will only grant the divorce if it is satisfied that the parties have fulfilled these requirements. For the purposes of this article, only the first ground will be explained in more detail. The first ground requires individuals to be “living apart from one another” for a period of 4 years regardless of whether the parties consent to the divorce. The legislation failed to elaborate comprehensively on the nature and scope of the phrase “living apart” as it applies in the Irish jurisdiction (Martin, 2000). Some parents live apart in two separate residences, whereas other parents live apart in one residence. Either type of arrangement is permitted under Irish divorce law. This interpretation was confirmed in *Mc A v. Mc A* (2000), where the High Court held that living apart meant more than mere physical separation: An individual could be living apart from his/her spouse while still residing under the same roof.² As Shannon (2008, p. 43) highlighted, “applicants living in such circumstances (under the one roof) need to provide evidence of their daily living practices, including the following: their sleeping arrangements, communication with the spouse, caring for the children, holiday arrangements etc.”

During the period before a divorce is granted, either spouse can obtain preliminary court orders, such as an interim maintenance, custody or access orders. To protect women, men, and children in abusive relationships, a spouse can also obtain a preliminary court order, such as an interim barring order under Section 2-5 of the Domestic Violence Act, 1996. The Court facilitates the making of interim barring orders, in terms of which immediate protection is required. Such an order requires the respondent, "if residing at a place where the applicant or dependent child resides, to leave that place; or, if not residing there, it prohibits the respondent from entering that place until a further order of the Court has been made" (Shatter, 1997, p. 843). There has been little investigation into consequences of this amendment.

While the number of divorces from covenant marriages in the United States remains small, the number of separated fathers in Ireland, based on the recent census in 2011, is quite considerable: there are now 88,918 separated and/or divorced men in Ireland. The experience of separated fathers in Ireland can offer some empirical insight into the experiences, challenges, and frustrations encountered while awaiting a divorce.

Methodology

The findings in this article are drawn from the author's qualitative doctoral study of how Irish parents renegotiate family practices on separation. The study focused on the exploration of the meaning and interpretation that divorcing parents attached to their experiences and therefore a qualitative approach was best suited. This approach was also most appropriate given the dearth of information and theory on divorce and separation in the Irish context.

Fieldwork was conducted between January 2008 and December 2008. This research involved in-depth interviews with 39 separated/divorced adults (18 men and 21 women) who all had one or more children. This article reports on the findings of in-depth interviews with 15 men about their experiences of a judicial separation and divorce. For the purposes of this article, only men's accounts of the divorce process are presented. There were three reasons for choosing to focus on men's experience for this article. First, fathers are the parents who are more likely to move out following marital separation and divorce (Kitson, 1992; Mahon & Moore, 2011). Second, men are more likely to receive a barring or protection order and be removed from the family home (Horgan, 2011). Third, there is less information on fathers' involvement in postdivorce parenting that is based on the experiences and narratives of fathers. The information that is available regarding fathers' involvement in postdivorce parenting frequently reflects the mothers' perceptions (Kruk,

1993). Since men and women have distinctive experiences after divorce and often times report conflicting realities regarding the divorce process (Braver et al., 1993; Hetherington, 1993), it is important to consider fathers' perceptions of their coparental relationships if we are to establish effective strategies that support all members of the families. Fathers who agreed to a separation agreement through mediation ($n = 3$) agreed to the living arrangements with their former partners and were, for that reason, not included in the analysis for this article.

Sampling

The fathers were sampled from a mail-out from private family law solicitors and referrals from two community family law centers. The only criterion on which a respondent in the main study was selected was that they had to be a parent and they had to have been separated for at least 1 year. Lawyers were instructed to recruit clients for the study who were parents and had been separated for at least 1 year. The method of sampling for this research was opportunistic. Given the highly sensitive nature of marital breakdown, direct access to a divorcing parent sample was not available to the researcher.

Table 2 describes the sample according to a range of characteristics. The ages of the respondents, as outlined in Table 2, ranged from the mid-1930s to the mid-1950s. At the time of the interview, the periods since separation or divorce ranged from 2 to 8 years. This distribution reflects the sampling strategy of recruiting parents who had been separated for at least 1 year. There was a broad and even spread in the duration of respondents' marriages with no particular length of marriage being more vulnerable to marital breakdown than another. The shortest marriage lasted 6 years, whereas the longest marital relationship was 27 years. The ages of the children in the study ranged widely. The study included fathers who were parenting very young children and others who were parenting teenagers. Seven fathers had high levels of contact,³ five had weekend access, and five fathers had "weekly" contact, which consisted of a few hours per week and did not include overnight stays.

Table 2 also describes the living arrangements of the sample of separated fathers. In the sample, four fathers owned or co-owned the marital house outright, while 11 fathers had taken out a mortgage on the marital house. Following the decision to separate, six fathers remained living in the family home for more than a year with their ex-wives; two fathers remained in the family home without the ex-wife; two fathers remained in the family home for more than 6 months; and five fathers moved out of the family home after 1 month of coresidence with their ex-wives. Fathers who moved out before a legal separation was finalized moved into either rented accommodation

Table 2. Characteristics of Separated Father Sample.

Uneasy dwellers	Name	Age (years)	Age of children at time of separation (years)	Length of marriage (years)	Time since separation (years)	Nature of occupancy during marriage	Time spent "living separately and apart under one roof"	Living arrangements prelegal separation	Reason for leaving home	Living arrangements postseparation (2-3 years later)	Contact arrangement
	Cian	42	9, 6, 1	10	6	Own with mortgage	1 year	Remained in family home	Settlement reached	Bought house with mortgage	50/50
	Mike	45	9, 7, 4	12	8	Own with mortgage	1.5 years	Remained in family home	Settlement reached	Bought house with mortgage	Weekend
	Edward	54	19, 16, 11	18	3	Own outright	3 years	Remained in family home	Settlement reached	Renting	Primary carer
	Philip	44	9	20	2	Own with mortgage	2 years	Remained in family home	Conflict	Living in family home—Awaiting court decision	50/50
	Larry	45	14, 10	12	6	Own with mortgage	2 years	Rented for 1 year	Conflict	Bought house with mortgage	Weekend
	Joseph	54	16, 14, 12	20	2	Own with mortgage	1.5 years	Remained in family home for 1.5 years	Conflict	Renting	Limited
	Rob	39	2	10	4	Own with mortgage	8 months	Moved in with parents	Conflict	Renting	50/50
	Josh	43	4, 2	11	5	Own with mortgage	7 months	Rented for 2.5 years	Conflict	Renting	50/50

(continued)

Table 2. (continued)

Name	Age (years)	Age of children at time of separation (years)	Length of marriage (years)	Time since separation (years)	Nature of occupancy during marriage	Time spent "living separately and apart under one roof"	Living arrangements prelegal separation	Reason for leaving home	Living arrangements postseparation (2-3 years later)	Contact arrangement	
Subtle evictees	Eoin	41	7, 3	12	5	Own with mortgage	1 month	Remained in family home, wife moved out	Conflict	Bought house with mortgage	50/50
	Warren	54	18, 16, 11	18	7	Own with mortgage	1 month	Remained in family home, wife moved out	Conflict	Bought house with mortgage	Primary carer
	Ciaran	37	1	6	6	Own with mortgage	1 month	Moved in with parents for 2 years	Conflict	Bought house with mortgage	Weekend
	Allan	54	16, 14, 12, 5	20	3	Owner outright	1 month	Rented for 1 year	Conflict	Bought house outright	Weekly
	Jay	35	3, 1	8	2	Own with mortgage	1 month	Moved into 2nd property (mortgage)	Conflict	Own house with mortgage	50/50
	Mark	45	5, 4, 2	5	2	Own outright	1 month	Moved in with parents	Conflict	Bought house with mortgage	50/50
	Peter	52	13, 8	13	7	Own outright	1 month	Moved into 2nd property (mortgage)	Conflict	Bought house with mortgage	Weekly

($n = 3$), or into their parents' house ($n = 3$), or into a second property which was already owned ($n = 2$). After a legal separation was finalized (approximately 3 years after a decision to separate), most fathers in the sample moved into a new house which they owned, either with a mortgage ($n = 9$) or outright ($n = 1$). Some fathers, however, continued to live in rented accommodation ($n = 4$). The separated fathers in this sample were mainly home owners. Census 2011 indicated that 43% of legally separated men (and 49% of divorced men) were living in rented accommodation. The findings, therefore, which have been drawn from this sample are specific to this middle-class sample and may not reflect the experiences of fathers from lower socioeconomic groups.

Data Collection

The author took an exploratory approach to the interviews, seeking to cover aspects of the marital relationship, the divorce process, and the postseparation financial and parenting arrangements. The order in which topics were addressed varied but there were three main areas which were explored. The first stage of the interview related to the nature of the marital relationship and the disintegration of the relationship. The research explored how the parents physically separated and how the parents experienced the move out of the marital home. The second stage of the interview focused on decisions the parents made about their children and the provision of financial support since the separation. The third stage of the interview focused the parents' attention on their (dis)satisfaction with the parenting arrangements and the financial arrangements overall. This guide was designed as a starting point for all interviews but the researcher allowed considerable scope for interviews to take their own direction.

Interviews lasted between 90 minutes and 120 minutes. The majority of interviews ($n = 12$) took place in the researcher's office: one took place at the participants' place of work, one took place in the participant's home, and one in a coffee shop. These locations were chosen on the basis of the participants' preferences. Interviewees were informed at the beginning of the interview about the purpose of the study, and that their participation was voluntary, and that they could withdraw at any time. They were asked if they agreed to be interviewed and for the interview to be tape-recorded; and they were asked to sign a short consent form confirming their agreement to participate. Participants were also informed that their names would not be used in any reports or papers emanating from the study; they would be referred to using pseudonyms and any references to their personal lives (such as their profession or place of residence) would be altered in order to protect their anonymity. In this article, therefore, the respondents are referred to by pseudonyms.

Data Analysis

The method of analysis followed the “conceptual scaffoldings” approach, where the qualitative findings are built from the original raw data (Spencer, Ritchie, & O’Connor, 2003, p. 213). This method of analysis involved three overlapping stages: This first stage involved sorting and reducing the data by generating a set of codes. For example, I used “physical separation” as the initial broad structural code; I coded all data relating to “physical separation” and I sorted the data into different structural codes: (a) both parties moved out of the matrimonial home, (b) one person left the matrimonial home, or (c) both parties remained in the matrimonial home until the court decided the outcome of the case. For the purposes of this article, only the second and third categories are relevant.

In the second stage of analysis, the nuances and tensions within each category were analyzed and incorporated into the analysis; for example, in some cases, one person agreed to leave the matrimonial home voluntarily while in other cases, a former partner was made to leave the family home through involuntary measures such as the use of a protection order. In addition, some fathers discussed different options with their former partners, while for other fathers, there was no discussion. The process governing who remained in the marital home was either covertly or overtly agreed on.

In the third stage, a typological classification was established to capture the fathers’ perspectives on their residential arrangements following marital breakdown. Two dimensions were used in the designation of categories: participation in decision making for the residential arrangement following marital breakdown and the method of affecting the physical separation (voluntary or forced). The two categories established were (a) subtle evictees and (b) uneasy dwellers. Subtle evictees included fathers who did not overtly discuss the residential arrangements with their former partner and were forced or “manipulated” out of the family home. Uneasy dwellers included fathers who overtly discussed the residential arrangements with their former partner and chose to “live separately and apart under one roof.”

Throughout the first and second stages of analysis, the researcher called on two colleagues, familiar with the research project, to compare and check the collection and interpretation of data (Ritchie, Spencer, & O’Connor, 2003). The researchers reviewed three separate excerpts from each of three transcripts and the researchers were asked to code the excerpts individually. The coding of the transcripts was discussed and both their findings were consistent with my own. After the coding session, I asked the two researchers to review the codes and themes they had created, so they could identify what they thought were relevant patterns and higher level concepts in the data.

Again the concepts identified by the researchers were discussed and their findings were consistent with my own. It is important to remember that what is described is the participants' perceptions of the events, and that these may or may not be shared by others.

Findings

The findings will be presented by examining the experiences of fathers who remain living in the same residence as their former partners (*uneasy dwellers*, $n = 8$) and comparing these with the experiences of a group of fathers who had to move out of the family home (*subtle evictees*, $n = 7$) and lived in a separate residence from their former partners after the decision to separate. This comparison is based on the analysis of the data and the different experiences fathers encountered in moving out of the matrimonial home on separation. The findings are presented in this way to investigate the differences in negotiating physical and emotional boundaries for a group of fathers who remain physically present with a group of fathers who are physically absent. The findings indicate that fathers who remained (or attempted to remain) in the family home until a settlement was reached were unwilling to move out for financial reasons and/or had been legally advised to remain in the family home. Fathers who did not remain in the family home following a decision to separate, had been requested to leave the home by their former wives, that is, they felt "subtly evicted" as they were forced out of the home because their wives initiated separation in an indirect way. The ability to renegotiate physical and emotional/psychological boundaries will be investigated for both groups.

Uneasy Dwellers

Following a decision to separate, the respondents in this group remained "living separately and apart under one roof." Five fathers coresided with their former partners for between 1 and 3 years. Three fathers, (Rob, Joseph, and Josh) coresided with their former partners for between 6 months and a year, but were unable to remain in the family home until a final agreement had been reached. According to these three fathers, the level of conflict had reached a "tipping point" and despite legal advice to remain in the home, the three fathers described the need to leave to protect themselves and their children from the high levels of conflict.

It is important to outline why the respondents believed it was necessary to remain in the family home. The eight "uneasy dwellers" all complained about being "completely lost" as they described their experience of coresidence

(following the decision to separate). In accordance with the findings of other researchers (Olivas, 2004), the participants described this period as a “huge period of uncertainty.” The experiences indicate the uncertainty about the state of their families and the uncertainty around negotiating physical and emotional boundaries. During this period, the participants received mixed messages about why they should stay in the family home. Legal advisors recommended that the fathers should stay in the home as they believed it (a) demonstrated a commitment to the family which gave the father a greater “edge” in the divorce negotiations and (b) it ensured that fathers had access with their children during the transition. In essence, these fathers were not perceived to be “abandoning” their responsibilities toward their family (such abandonment was common in the 1970s in Ireland before judicial separation and divorce were introduced).

Cian, a father of three young children, described the legal advice he received during this period:

He [the solicitor] just said to me, “one bit of advice, just stay in the house until everything is summed up. Don’t leave the house. That’s your best bargaining chip, is your presence in the house. Until you get something signed, stay there.”

Cian remained living in the family home, albeit separately and apart from his ex-wife, for a year. In most cases, fathers reported that coresidence was far from an ideal option; it was one that was imposed on them by their legal advisors.

[It was] because of sort of legalistic issues in terms of deserting the family home, in terms of right of access to the child, and in terms of right of entitlement to assets. These are all concerns you should not walk away from—as you will be seen as deserting the family.

Three fathers who had moved out temporarily were even advised by their solicitors to return to the family home:

So my solicitor then advised me to get back to the family house, you have no right to be out; so I approached her [ex-wife] and said sorry, I am moving back and mmm, that wasn’t greeted very well, but there was no reason for me to be out, I have done nothing.

The eight fathers outlined the challenges of remaining in the same house as their ex-wife. For this group of fathers, the former partners were physically present and boundary ambiguity was prolonged. The copresence included a

high level of ongoing involvement and created anxiety and individual stress. Mike described the difficulty of balancing his legal rights with considering the best interests of the family when he returned to the family home after a temporary period of living apart:

Having to move back in again was, was no joy either you know—you knew that, like as you said did the kids know, yeah—these things were happening—that wasn't the way to get anything sorted. Obviously, when I moved back in nothing really improved, it just got worse—so you were hoping, come on, let's get this hurried up and sorted out.

In practice, the legal advice proved to be “unbearable” for all eight fathers, and all the fathers outlined how it was difficult to stay in the marital home. Mike explained: “It wasn't easy at the best of times . . . it wouldn't take that much to tip you over the end.” The emotional intensity increased as fathers' experienced conflict in their role identities between acting as a “good” father (and protecting their children from conflict) and protecting their postseparation financial position. Rob described how he felt powerless about remaining in a living arrangement which was detrimental to his child. During the interview he reflected on how he should have moved out of the family home earlier:

In a certain sense it wasn't necessarily my choice or doing, so I didn't feel I had to put up with it; eventually it became unbearable and a child was stuck in the middle of it . . . so again legal were forcing the situation of you staying there. I was advised to stay; did I know any better, no, I should have moved quicker in hindsight.

As the fathers stated, children were “caught up” in the middle of ongoing parental conflict and renegotiating emotional boundaries was made more difficult. Six of the eight fathers complained that living “separately and apart under one roof” with their ex-wives aggravated the coparental relationship and their ability to communicate:

It was terrible. I slept in the spare room. It was increasingly worse and worse. There was no ability to communicate. I couldn't communicate with her verbally because it would just turn everything into a row.

Boundaries were difficult to renegotiate due to the intense emotions, limited communication, and conflicts in role identity. Boundary ambiguity was prolonged as former partners were unable to renegotiate and restructure new postseparated parenting roles.

Although some parents experienced lower levels of ongoing conflict, living together while the judicial separation was proceeding in the courts did not improve the relationship. Mike described how the emotional intensity of living together escalated when their case was being heard in court or when legal correspondence was received by either party:

At various stages there might be some communication and sort of some contact and at times there would be absolutely nothing of course. It all depended on how things were going in the courts or whatever. I had a number of appeals and the solicitor was just saying, sit tight and don't do anything, don't make any changes . . . yeah, yeah—until the final agreement was drawn. It wasn't very pleasant living and it was again very difficult . . . having to sort of to, to live with that in the fear that this whole thing is falling asunder completely and then actually having to go back and face each other at home.

Joseph described his experience in the family home as a “deliberate exclusion campaign” orchestrated by his ex-wife. He explained how he had been advised to remain in the home:

There was a very strange period of time after that [decision to separate] when I was still living there: my wife went into this, well I just don't know, very difficult and very adversarial and the kids were mixed up, the kids were waiting to see what happened next and she was, after that, there was a decline and a sort of deterioration of the overall relationship between myself, my ex-wife and my children.

As is evident above, individual family members' perceived membership and boundaries differently. The family appears “intact” and the father is present but Joseph described how he felt psychologically excluded. The structural reorganization and redefinition of his role that should take place during this period was blocked even though he was physically present.

Satisfaction With Contact While Coresiding With Ex-Wife

Fathers discussed how access to their children suffered during this period. Seven of the eight fathers had good access to their children but the quality of the access was affected by the hostile environment in which it took place:

I had an equal divide, complete access to Chloe and spent most of my weekends with her, solely, only to return to the family home, put her to bed. I spent a huge amount of time with her, which was good in terms of bonding but then back into a situation, basically try and stay in my bedroom and avoid her [ex-wife]

but it was difficult as there were rows in front of Chloe; well it became too much. I couldn't handle it. I couldn't take it. It wasn't good for anybody.

Carving out a space in which to parent, while living in the same house, was a difficult challenge for these respondents. There were no rules governing the time each parent spent with their children. Fathers had to negotiate with their former partners the boundaries of their respective parental power. In four cases, access was restricted as fathers described how the mother interfered with contact. Philip described his situation: "She [his ex-wife] was coming home and making my life hell, she was trying to push in on my time with my daughter but I couldn't afford a flat." Philip had to find alternative ways of spending time with his daughter. He decided to take his daughter to his parent's house: "so I started going round to my mother's and father's [house] so she wouldn't impinge on my time, so we sleepover at mom and dad's." In doing so, Philip adjusted the physical boundaries and regained control over the dyadic relationship. Not all fathers were able to call on support. Joseph described how his ex-wife emotionally distanced herself and the children from him during the period of coresidence:

I came home from a meeting, the kids were upstairs, and I said ok, "will I organize some food" and she said "no," "I could cook something" I said, and she said "no, you do your own stuff; we are taking care of ourselves, we are going out" and from that day forward there was never again any kind of family meal ever again, including the Christmas that have gone by and every birthday, no kind; so from that summer, if I came in from work, they would all go out. We never had another day, that was it, a complete kind of Coventry regime where I was like a leper in my own house. It was very strange for the children.

Joseph described the deliberate marginalization from the children as "a stick to beat me up." The emotional intensity experienced by Joseph increased during this period and he described the home as a place of "tribal warfare." According to Joseph, his former partner controlled the psychological territory of the family relationships and she drew a boundary around herself and the children and excluded him. For Joseph this became emotionally agonizing:

The solicitor instructed me initially to stay there, which a lot of them do, but literally, this is true, I would have committed suicide. I couldn't live like that with my children. Essentially, I was living in a jail or a Russian concentration camp where you come, they go, and there is no interaction at all. I had a very hostile wife. I felt it was greatly, greatly that there was a possibility that I could have a normal relationship with my children but eventually it was like a grave and I moved out.

Joseph, a father of three, broke down in tears when he described the deterioration of his relationship with his children when he coresided in the family home, a place he had come to experience as a “jail.” Joseph experienced a very long and difficult period of coresidence, and a highly contested divorce process followed. Although the solicitors advised Joseph to remain in the family home until a settlement was reached, he received several legal letters from his ex-wife’s legal team, and Joseph agreed to move out of the family home: “the stress on the children was much greater because I was still there, it would be much better if I moved out.” The period following his move out of the marital home was particularly difficult and Joseph’s contact with his three children was reduced to a weekly hour-long visit.

Subtle Evictees

Following a decision to separate, seven fathers were asked to leave the family home. These respondents described two main methods of making the initial move out of the family home, at a time when the marital relationship was stressed. In the first method, the fathers agreed, albeit reluctantly, to go, while the second method involved the fathers being legally required to move out. In no instance did the father leave the family home for another partner. Looking back, the fathers in both these situations complained that their former partner had them removed from the family home deceitfully, which further complicated the process of renegotiating boundaries between parents and former spouses.

For this group of fathers, boundary ambiguity is prolonged as fathers keep the former spouse psychologically present. These fathers are psychologically embroiled in a dispute about being “manipulated out” of the family home. The emotional anxiety and hurt are increased as a result of not only the separation but also the manner in which the physical separation was managed. This anger and pain binds the subtle evictee emotionally closer to their former partner. Delaying the time before housing, financial, and parenting matters can be resolved and regulated can increase the intense emotions experienced by these fathers, as they continue to feel “cheated.” Former partners cannot even attempt to establish new rules for parenting together in a new structure when one partner feels cheated. During this “delayed” time, it is difficult for family members to establish clear boundaries that allow for the development of autonomous identities.

The first method of removal from the family home was usually in response to a request from the former wives for “some space.” Fathers perceived the move as a temporary physical separation, or what one father referred to as a “cooling off period.” These three fathers agreed, albeit reluctantly, to move

out of the family home temporarily. The move provided a breathing space, inserting distance, and time into personal relationships that were hostile. Eoin, a father of two young children, described how he felt about the request:

She [ex-wife] put me under pressure, saying "If you move out for a bit, everything will sort itself out and everything will be wonderful; in 3 months, the marriage will work." I said that is a good suggestion [in a sarcastic tone] and I got a flat and within 2 weeks of that I was looking to meet with her and sit down and fix it and I then realized it was a ploy to get me out.

Once outside the family home, the fathers regarded their removal as a subtle form of eviction. Two weeks after moving out, Eoin discovered that the separation was going to be more permanent. He explained how his ex-wife had "slowly conditioned the kids [to accept] that the living arrangements weren't going to change and that dad was gone." The participant grew even more despondent when he found out, in the same week, that his former wife was ready to institute proceedings:

I realized there was a *fait accompli* and this had been all worked out for months, and you know, solicitors were lined up and everything; it was quite impressively done, so eh yeah, then I had to get a solicitor.

Boundaries between former partners are especially uncertain when only one partner wants to separate (Emery & Dillon, 1994). In recalling the event and experience, many of the fathers reported it as a deliberate and manipulative move to gain an advantage. Allan, a father of four children who had been married for 20 years stated:

In retrospect it became quite clear to me that my wife had decided on a course of action that she wanted to implement, and it was kind of a drip, drip, drip. So for the first few months we will separate and we will try to work at it, so after 6 months we will know. Six months later, so now we are going to separate for good.

Mark, a 42-year-old separated father, recalled his frustration at being removed from the family home:

We agreed that I would move out of the house for a short period of time to try and give her some space and to try to save our marriage. It is my house. I bought it in 1994 and she, after a 3-month period [in 2007], which I had negotiated in writing with her, she changed the locks. So I have never officially left the house. I have been removed from the house under false pretenses and I have been trying to grapple with that since then.

Mark felt that he was “shut out.” In this context, the boundaries of the house acted as personal and social boundaries for the former wife. The physical exclusion of the father from the family home exacerbated the levels of hostility between the former partners. The different desires and outcomes greatly complicated attempts to draw new boundaries of intimacy. The method in which the physical separation was enacted was not overt; Mark became more emotionally involved in pursuing the chase in anger.

The second method of gaining control of the family home required a firmer approach; according to the reports and perceptions of four fathers, their former wives removed them from the family home by alleging that they had acted in an offensive manner. In these cases the men were legally required to leave the family home. Peter, who was served with a barring order shortly after his wife announced her desire to separate, described how he was powerless: “I was forced out of the family home. She made some sort of allegation, of which I’m not aware happened.” He perceived the barring order application as “a tactic on her behalf to get [him] out of the house as she saw the opportunity to go down and get a barring order and [he] couldn’t do anything about it.” The order was an *ex parte* application and the fathers were only permitted to defend the application after the order was served. Peter described the process:

I rang my solicitor and he said, “Look, you have to go through with this cause otherwise they will have the police up.” There were no options. “Whether it’s right or it’s wrong you have to follow through with this, you have to adhere to it.” It was with immediate effect and it was for the initial period of 4 weeks or whatever it was until up to the hearing . . . I rang up some friends and asked whether I could stay there for the night. Then basically I just worked on where I could stay for the following weeks, so I moved around for the couple of weeks. So that’s the way it was. I couldn’t see my children. She wouldn’t let me.

In reality, the four fathers waited up to a month for their defense to be heard and during this period were excluded from the family home. The experience of being served with a barring order and being removed from the family home was characterized as drastic and unfair. One father, Jay, described how his solicitor explained it to him: “they [the solicitors] say it is a bullet that is used in many cases to have a first sort of movement advantage when it gets to a judicial separation.” Legal responses recalled by the fathers suggest a certain level of familiarity with such practices among legal practitioners. In many cases such an action was considered “strategic” by the legal practitioner, as it would “damage” the father.

Fathers were extremely frustrated and hurt at the method through which they were evicted. They were very angry that they were not physically present during this time of transition. While they were physically excluded from the family home, they were also psychologically excluded from their parenting role. They could not assist their children during this difficult time and the felt powerless with regard to their parental roles. Their emotional pain and anger was directed toward the former partner. The high level of emotional intensity experienced in these cases was characteristic of an involved intimate partnership.

According to the fathers' reports, allegations of abuse were not only used as a way of "shaming" the father in front of the family; two of the fathers also believed they were used for the pending divorce hearing. Warren spoke of such actions as being part of a strategy to get "one up" in the separation hearing. After Warren's former wife announced a desire to separate, neither party left the family home. During this period they were awaiting the outcome of a judicial separation application before they could move on with their separate lives. During this period, Warren's former wife made several allegations of domestic violence against him:

I was accused of beating her up. I was accused of evil things but nothing ever happened. I was brought down to the station a number of nights and questioned about the alleged incidents. What I was accused of doing was totally incorrect. There was a game and the intention was to get me out of the house. I only think that the plan was, get a barring order, get you thrown out of the house and then you are on sticky ground; the allegations will stick to you even if you are out of the house. "That guy must have done something, why is he out of the house?"

The deceitful way in which the physical separation was enacted, affected the fathers' ability to draw a boundary between their spousal and coparental roles. These fathers were preoccupied with the loss. The process of grieving, restructuring, and renegotiating could not begin since the facts surrounding the loss (absence) were not clear to them. The sample contained no cases where the father sought "some space."

Satisfaction With Contact After Being Forced to Leave the Family Home

Once out of the family home, fathers reported having restricted access to their children. The children are the focus of contention as they remain the link between the former partners. Ciaran described how he lost control of the process and had to accept the level of access permitted by his ex-wife:

She [ex-wife] became very difficult. I would pop up every opportunity I could get, every time I was allowed; other times she would tell me to go away, or [say] “I don’t want to see you” or “It is not the best time.” I could appear in the evenings in the house and be given 20 minutes. The whole thing was very odd and then I was sort of ushered out, sort of made to feel, “your time is up” sort of thing. It went on like that until we got a formal separation agreement and then it was clearer [as] to the times.

The father experienced a loss over his parenting role and also a degree of loss over his relationship with his children. Mark described how access was limited and controlled by his ex-wife:

She just put that in place, she decided that I could see my youngest son for 1 hour on a Wednesday and Saturday and she also decided to see what I could do on those other times, which just drove me around the twist.

The fathers were psychologically enmeshed in the lives of their former partners and there were ongoing disputes regarding the children. Establishing clearer and more formal boundaries was required in these cases. In six of the seven cases, fathers complained that the only way they could see their children was to pursue legal action and obtain an access order. Allan described this:

Well I wasn’t able to see them [children] at all, so there was a lot of personal hostility towards me and, em, so I had real difficulty trying to get any agreed arrangement, and it wasn’t until I got a solicitor to intervene after a space of a year, that I got any kind of agreed arrangement with my ex-wife.

Former partners cannot even attempt to establish new rules for parenting together in a new structure when one partner feels cheated. The fathers felt pushed to pursue legal action to have contact with their children—they became the aggressors. Even when interim access orders were obtained, Eoin described how the terms were breached. He described how it became tiring to revert to the courts whenever the terms were breached. Given the hostile relationship between the parents, he tended to overlook such breaches:

The arrangements changed all the time, that is the thing; you have to be on your knife edge with her, you know, since this has happened, she is very aggressive, never saw that before, in the marriage, very kind of, you would be so careful not to say the wrong word to her, she would just say I am calling my solicitor.

Eoin explained that fathers “are outside, so you are very much outside, you [have] to learn to accept that and that is really tricky.” In most cases, fathers

waited for more than 2 years before a judicial separation was obtained and before the couple could settle into a stable postseparation arrangement. During the waiting period, residential, financial, and parenting arrangements were not always regulated and the opportunity to find closure in the process was made more difficult. While they continued to be involved in ongoing disputes, the fathers were also grieving the end of a relationship and struggling to overcome the challenges they faced in reestablishing their parental role.

Discussion

The findings in this study demonstrated how the process of renegotiating roles postseparation is further complicated by the uncertainty surrounding the move out of the matrimonial home. The feelings of being forced to stay in the home or being forced to leave the family home all relate to increasing uncertainty when renegotiating physical boundaries. Such experiences and uncertainties increase ongoing emotional intensity in the relationships with the former spouse. The evidence in this study demonstrates that fathers receive mixed messages about where to stay following a decision to separate. Lawyers recommend remaining in the family home, ex-wives want them to leave the family home, and the fathers themselves experience tension with regard to staying in the family home. Fathers reported tension in attempting to renegotiate their parenting role together with their spousal roles as they tried to consider the best interests of the child, during the period of coresidence. While some fathers (in Ireland) may remain in the family home for legal reasons, fathers in other countries may remain in the family home because they cannot afford the alternative. This research is based on a sample of professional, well-paid, separated fathers. There might be even more serious consequences for lower income fathers and for families that are forced to remain living together under one roof, in spite of a separation between wife and husband.

As with other research findings (Amato, 2001), these findings reveal that being coresident with a child following a separation does not necessarily ensure quality of contact, particularly when emotional and physical boundaries between former spouses and coparents are contested. Although in most cases fathers who were “uneasy dwellers” enjoyed contact with their children, fathers complained that the level of parental conflict during this period meant that the shared home was not the best environment for the child. Rather than hoping for reconciliation, there is much to be gained from a positive coparenting relationship and a speedier divorce process. As Olivas (2004) argues, couples who approach solicitors have probably already decided on a

separation. Rather than forcing parents to wait for a long period before matters can be resolved, it seems preferable to provide support and resources for parents who wish to move into amicable postseparation arrangements. However, the author also acknowledges the inherent limitations of the research. The research is unable to differentiate between conflict that occurs as a “natural” part of the process of renegotiating relationships and that may not be specific to the application of restrictive divorce policies. Future research should adopt a longitudinal approach which examines changing levels of conflict over time and includes a comparative sample of fathers who experience a speedier divorce.

The findings also reveal the experiences of fathers who are made to leave the family home and who lose control over contact with their children during this period. Fathers who were excluded from the family home lost all trust in the parental relationship. According to the experiences and perceptions of the fathers, their former partners resorted to creative ways of initiating a separation and assigning fault—for example, by removing the former partner from the house. This exacerbated the degree of emotional conflict between the parents and as a result the former spouse has a more difficult time establishing clear relationship boundaries. The interim period is particularly complicated due to the multitude of changes that occur in the spousal relationship. For couples who are unable to agree an interim parenting, financial or housing arrangement, the period before such arrangements can “formally” be regulated is characterized by uncertainty. The longer it takes to formalize such arrangements, the longer the family members are held in a state of prolonged ambiguity. Such uncertainty increases the level of emotional intensity that remains in the relationship with the former partners, and the lack of control that these fathers/members perceive themselves to have over their lives, especially with regard to their parenting, is bound up with intimacy issues and power relations.

Amato (2001) recommends that high-discord divorces should be assisted by speeding up the divorce process. The findings of this study are that restrictive divorce policies that delay divorce potentially create a situation of prolonged boundary ambiguity which may complicate the process of renegotiating boundaries between the former spouses on divorce. This is a barrier to post-divorce adjustment and couples may experience increased levels of discord. Children may also be subjected to increasing discord during this period of uncertainty. Although many divorcing parents will experience ongoing conflict and will in any case require several years to stabilize their postseparation parenting patterns, restrictive divorce policies do not assist the parents’ transition, to the process of renegotiating family boundaries postseparation.

The policies that require a waiting period and the lead to feelings of being forced to stay in the home or forced to leave, all relate in some way to issues of unclear boundaries. The literature on covenant marriages has not yet taken into account the consequences of prolonging the period of separation before one can obtain a divorce. The Irish case sheds light on this issue. The Irish state does little to support separating parents. Sections 6 and 7 of the 1996 Act oblige lawyers to discuss with both applicant and respondent the prospects for reconciliation and mediation, but this does not support the parents. The couple has only to indicate that they are *aware* of alternatives to divorce (i.e., reconciliation, mediation, and legal separation). The state's priority is to inform parents about (and not compel parents to attend) counseling or mediation sessions; this indicates that the state is not fully committed to strengthening family relationships.

Although the study did not set out to recruit fathers who were committed to fathering, these findings are based on a number of fathers who were in fact committed to parenting. Their commitment to their children did not change following the separation. The circumstances, in which they found themselves, following a decision to separate, made postseparation parenting very difficult and this was not in the best interests of their children. The time taken before one can legally separate or divorce in Ireland is an unhelpful barrier; it does not support marriage or strengthen family relationships; this article argues that it prolongs feelings of boundary ambiguity. During this delayed period, fathers are unable to find closure. The laws currently do not assist parents to define clear and rigid boundaries in their own relationship, as the marital separation period is extended before a divorce can be sought. During this period of prolonged boundary ambiguity there are very few rules or guidelines assisting parents to establish their roles. This research shows that delaying divorce or making it more difficult does not in fact strengthen marriages; it merely leads to an increase in unhappiness, hostility, and anger. Although speeding up the divorce process may not be popular, it may be in best interests of both children and parents, given that the current situation seems to increase levels of uncertainty and boundary ambiguity.

Future research should investigate the experiences of low-to-moderate income couples, who are seeking to separate, but who cannot afford to separate. The high costs of divorce, coupled with the downturn in the economy (Burke, 2012) have left many couples in a position where divorce is not an affordable option. Previous research has outlined how marital breakdown was a significant factor in causing families to experience persistent debt and fall into arrears (Daly & Leonard, 2002), so the problem of "living together separately and apart," albeit under one roof, is likely to occur frequently. Larger scale studies with a more socially and economically diverse group of

separating and divorcing parents should further explore this experience. Second, it was notable that many of the men were served with barring orders (which were later rejected) as a way of removing them from the family home. Given that many of the difficulties in postseparation parenting arise at this early stage (Demo & Ganong, 1994), research into this practice and experience is also recommended.

Acknowledgments

The author wishes to thank her supervisor, Dr. Evelyn Mahon, for the support she received during her doctoral studies on which this article is based. The author would also like to thank Virginia Dominguez and Roberta Cole for their support with the article.

Author's Note

The views expressed in this article are those of the author and do not necessarily reflect those of the Irish Research Council for Humanities and Social Sciences.

Declaration of Conflicting Interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) disclosed receipt of the following financial support for the research, authorship, and/or publication of this article: Irish Research Council for the Humanities and Social Sciences provided financial support for 2 years of the thesis and the University of Dublin, Trinity College provided a studentship for 2 years.

Notes

1. Section 5 of the Family Law (Divorce) Act, 1996.
2. *McA v. McA* 21 January 2000 High Court (unreported).
3. For the purposes of this study and in accordance with other categorizations of contact (Smyth, 2005), a high level of contact was defined as between 40% and 50% of the time. Weekend access included at least one overnight stay. Weekly access included seeing the child for a few hours per week and it did not include overnight stays. Limited contact involved the least amount of contact and it could be as little as seeing the child once a month.

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