

The God Delusion: Why Coleridge's view of judicial authority is misplaced

As the judiciary continue to politicise their roles through public judgements and speeches, ever more concerned about their future inside courts they have traditionally commanded, some of our judges unwittingly display the dislocated logic that has played a large part in undermining certain bastions of British society: our right to freedom and justice.

Mr Justice Coleridge's [speech to the Association of Lawyers for Children](#) last week is one such woeful example of ego versus reason. In the speech Mr Justice Coleridge's, rather predictable, central theme is that all the ills of the family courts are a result of the lack of respect judges now have to endure at the hands of family units gone wild and despite various half hearted attempts at trying to appear open minded about freedom of choice as exercised by modern families today (who are in large part more cautious about getting married, not least of all because many watched their parents suffer in silence within the bonds of matrimony), it's very clear that conservative bullishness is still very much the order of the day amongst some of our family judges, despite a valiant attempt at appearing reasonable.

Mr Justice Coleridge goes on to explain that the rather lacklustre view of the family courts is misguided and that the perception of the family justice system being at breaking point is inaccurate and unhelpful but yet in the same paragraph goes on to say that the delays in the system are unacceptable, set to get longer and are already very damaging to the children involved in terms of their welfare and development. He also goes on to say, that the problem is both chronic and acute. My question then to Sir Paul would be, despite the fact that he does not wish to comment on the possible end point for the courts in their current state, how many more Baby P's (and there have already been too many to mention) would he feel make up enough deaths for us to conclude the system is on its knees?

Yet Mr Justice Coleridge's stance is understandable. Like many judges he is fearful of the future. The unsettling changes within custom too must be a shock for those professionals who seek comfort in the stability and predictability of ordered and conventional life. Not only this, but many of the protocols that the system has enacted over the years have been fostered by Mr Justice Coleridge. It cannot be pleasant or pleasing to watch the public criticise a life's work. I do have sympathy for this sentiment. Many of our judges try hard to do the best they can, but the fact still remains that several have been limited in their ability to adapt, until now.

At present, there is a trend amongst the judiciary in the family sector; those who have decided to take a progressive view to save the profession and help families and those who wish to pull us back to a process that works on hierarchy and fear. From this speech, it would appear that Mr Justice Coleridge falls into the latter category. In the speech, Mr Justice Coleridge tells the conference that " a major contributing factor [to the problems] is the reduction in the perceived authority of the family court and the family judge". I'm not sure how well that sentiment would have gone down in a room full of lawyers, but I am certain that had families going through the system been present, several would have then asked why it was that when Orders were breached, very little was actually ever done to redress the injustice. The answer to that question lies firmly within the context of the process itself: it is simply not able to deal with emotional matters in its current format, a format that Mr Justice Coleridge is clinging on to, without considering fully, I would modestly suggest, the ramifications of such a view. However, equally likely, would be Sir Paul's reply that now, more than ever, judges need greater powers to enforce their orders.

Yet the idea that judges want to be more involved is [not a new one](#). For some months now, the judiciary have been vocal about increasing the scope of their role inside the family courts by indirectly and directly courting government with a view to getting them to increase their powers. This motivation is at the heart of Mr Justice Coleridge's speech.

Keen to impart the view that the judiciary are all forward looking and fresh in court, in a rather humorous paragraph we are told "beware the stereotype judge". In this paragraph, it seems that judges from a bygone era who yearn for the past as it was, are nothing more than superficial figments of the public's imagination. Mr Justice Coleridge is right. We can add to that list judges who are completely out of touch with modern trends, judges who feel modern always has to mean worthy of disdain and judges who simply don't understand family, as a concept or a construct. And let's not forget Mr Justice Coleridge's own view of the past where, he says within the family courts, "things on the whole were tolerably well managed". Anyone with even a superficial knowledge of the family justice system in the last century would feel slightly uncomfortable at the thought. But this sentiment is not factual; it is a yearning for a bygone era.

It must be added that not all judges fear loss of conventional authority. Many have understood that authority would remain, but would be exercised in a much more sophisticated way. These are the judges pioneering family law and, to my mind, would hopefully offer the kind of justice worthy of contemporary Britain at its best. It is no coincidence that other jurisdictions similar to our own, like Australia, face the same difficulties in relation to their family courts. This should highlight the deficiencies within the system and show our judiciary that conventional notions of authority, procedure and process are not worthy of re-instatement. That we need to move forward. But to provide a rebuttal which explicitly states that families are to blame, is hardly a mature response when we look at the levels of distress inherent within family breakdown as compared to the relative strength our judiciary believes it manifests.

The rest of the speech is standard fare; how intractable disputes cause the plight the system now faces (without taking into account the ever growing pressures on a society struggling to cope with a decrease in quality of education, an increase in workload and a steady suffocation of quality of life thanks in many ways to our government's love affair with the banks) and how giving judges more power will make it all better. The theme of authority runs through the speech, a "Speed" style locomotive that runs and runs, but to where? From judicial authority to parental authority, Mr Justice Coleridge chastises parents for not being strict enough, for not laying down the law, forgetting all the while that we are living in a world where parents are continually encouraged to go out to work and leave the care of their children to others. No wonder then that some parents simply don't wish to spoil the precious time they have with their children by scolding them all too often. It may not be ideal to let children run wild (and as a parent myself, my son is rarely allowed to do so) and yet, what right did the judiciary ever have meddling in issues such as parenting?

Reading such outdated notions as creating authoritative frameworks for our children to rebel against as per his book recommendation "The Spoilt Generation" and other vignettes such as avoiding being 'best friends' with our little ones, is disheartening. In my limited years as a parent, and I suspect I am not alone, I have found that love and encouragement in a firm but gentle framework has always triumphed over hostile takeovers and ultimatums. Mr Justice Coleridge's protestations that he is not from a bygone era are betrayed by his choice of reading material and his implicit desire to control.

Mr Justice Coleridge also goes on to raise his concerns about listening to the Voice of the Child, as if those who promote the notion do so unfettered and without a considered approach, which involves understanding the sheer complexity of such a task. Describing himself in his speech as a "jolly chap, thoroughly approachable, who [wants] to help" children in court cases there then follows the most startling broad-brush approach reminiscent of judges past, looking to whitewash the world and make it in their image. Mr Justice Coleridge tells us the above approach in family cases was thoroughly wrong, as per the advice of the psychiatrist on one such case and that he was then told to place his tie back on immediately and sit behind his desk, to be the authoritative figure that he was, to let the children know who was boss. Of course, in psychiatry, views on how to approach children differ widely. Not all psychiatrists are afraid of sharing power.

Yet Mr Justice Coleridge is not content with the use of experts in the system; he would like to be able to make decisions relating to families' emotional and psychological wellbeing himself, without the use of medical professionals. He would like to punish parents for shirking contact arrangements, including the use of imprisonment. And most telling of all, he continues to view the family courts as "the front line service for the family at the time of breakdown". If ever the public needed an explicit admission that the system continues to force families into our courts, we have it here.

Mr Justice Coleridge's parting thoughts focus on restoring old fashioned authority inside the family courts to remove the fads and fashions that sway policy all too often from one extreme end of the spectrum to the other yet his staunch adherence to conservative principles are a cruel irony: he simply wishes to swap one fad out for another.