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Give fathers their rights back

By Barbara Kay

In the name of changing social mores and social justice, Ottawa's 1998 Special Joint Committee on Child Custody and Access recommended equal parenting as the default custody presumption (in the absence of abuse) after separation. The report then fell into a political black hole. Today, a tip of a ladder reaches up from that hole, and clanging footsteps can be heard on the rungs.

At least three recent developments in the field of family law are hopeful signs that social justice and common sense may finally prevail in post-separation custody issues.

We have British Columbia's first review of family law in B.C. since the Family Relations Act came into force more than thirty years ago. Their July "White Paper on Family Relations Act Reform" (accepting submissions until Oct. 8) contains progressive draft legislation and policy proposals: It recommends stepping away from courts and the adversarial model in order to "adopt a conflict prevention approach to family law disputes" and urges making "children's best interests the only consideration in parenting disputes."

Next up is the Green Party's unequivocal adoption of a policy of equal parenting at their August convention. By my reckoning that means every single federal party is on board with the idea that both parents have the right to maintain a strong, loving bond with their children, established through credible sociological research as necessitating 40% of the time with children beyond infancy.

Then there is last week's release of the Law Commission of Ontario in-depth report on the family law system. The report deplores a system that can bankrupt litigants and routinely ignores the wishes and interests of children: "Children want to be heard but they feel they have no voice and no power in relation to adults, including their parents, lawyers, counsellors and judges."

Is there anyone who believes that our family court system doesn't need reform? Perhaps some aging radical feminists who are content with the fact that fathers are offered shared or sole residential custody in only about 6% of court-contested cases. And of course the myriad of professionals - lawyers above all - who benefit financially in dragging out litigation, mostly unrelated to children's best interests, and who perpetuate a dehumanizing and heartbreaking - but lucrative - winner-take-all style of "justice."

But disinterested people categorically want reform. A National Post poll indicated that 91% of its readership supported equal custody as an alternative to sole custody determination, and a recent poll by the federal government has 80% of the public, from every political persuasion, supporting equal parenting.

The people for whom this issue matters most - people whose lives have been negatively impacted by the current iniquitous system - are united and organized. The Equal Parenting

Coalition (EPC) is now an international social movement focused on averting the tragedies that result for children when a parent is legally disenfranchised from his or her children's lives.

I say "his or her," but in reality, the iniquities of the system overwhelmingly target fathers. What are most fathers asking for? According to the EPC, the clearly stated primary goal would appear to be equal physical parenting. Advocacy in the equal parenting movement has moved well beyond fathers' rights groups, and is now a broad-based coalition of both mothers and fathers. More and more women realize that excluding fathers from their children's lives is unethical and psychologically counter-productive for everyone involved. Fathers want more input than just offering suggestions that their ex-wives can ignore. They want to truly share in parenting, including all its responsibilities

Indeed, the current president of the Canadian Equal Parenting Council is a woman. Kris Titus took up the EP cause when she saw how much her children suffered from the absence of their father after their divorce. She became an activist in the family law reform movement when she actually had to fight with a judge to change his award of sole custody to shared parenting, a move that benefited everyone in her family.

For many years Canadian justice ministers from both governing federal parties seem to have been more concerned with protecting the interests of the divorce industry, which takes up 40% of Canadian courts' time, rather than serving the needs of children. According to a 2003 study by actuary Brian Jenkins, "What do the children want?", 86% of children in North America have no voice in custody arrangements.

Decades ago women told men they had to take more responsibility for active parenting. They listened. Fathers have earned the moral right to equality of involvement in their children's lives in post-separation agreements as a matter of social justice. It is now up to our legislatures and judiciary to assume responsibility for establishing an equal-parenting presumption in law.

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