



Children harmed by sole custody, report says

Canadian judges rarely use voluntary arrangements in which kids live with each parent roughly equally

April 03, 2009

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LIVING REPORTER

Family court judges are misguidedly harming children by granting sole custody to one parent – usually the mother – in bitter divorce battles, says a comprehensive new report.



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Too many children are being "robbed of the love of one parent" by a legal system that is out of touch with the needs of children and treats them like property to be won or lost, says Edward Kruk, an expert on child custody issues.

"The system is set up to polarize parents, to make them enemies, to set up fights over custody and exacerbate conflict rather than reduce it," says Kruk, an associate professor of social work at the University of British Columbia, whose three-year study is now in the hands of Canada's justice minister.

He calls what's happening in Canada's divorce courts "a national shame" that leaves families bankrupt from legal fees and pushing parents, especially fathers, to suicide.

Especially devastating are the long-term effects of court orders that essentially cut one parent out of children's lives – usually the dad – in a misguided effort to foster peace between warring parents, the report says.

Citing a host of North American studies, Kruk's report points to the long-term dangers: Some 85 per cent of youth in prison are fatherless; 71 per cent of high school dropouts grew up without fathers, as did 90 per cent of runaway children. Fatherless youth are also more prone to depression, suicide, delinquency, promiscuity, drug abuse, behavioural problems and teen pregnancy, warns the 84-page report, a compilation of dozens of studies around divorce and custody, including some of his own research over the past 20 years.

"Parent-child bonds are formed through daily routines – preparing breakfast, taking the child to school, having dinner, getting ready for bed. Without that, it's very difficult for parents to have any real connection with their kids," Kruk said in a telephone interview from B.C. "It's so destructive for children to have a loving parent removed from their lives."

The effects of divorce on kids are now so well documented, significantly more couples separating today are opting for "equal shared parenting" – voluntary custody arrangements in which the children live with each parent roughly half the time, says Kruk. While a landmark federal study, *For the Sake of the Children*, recommended that approach back in 1998 and it has since been adopted by other countries, including Australia, it's still rarely used by Canadian judges and needs to be made law, except where there are extenuating circumstances, such as domestic violence or mental health issues that make one parent unfit, says Kruk.

Instead, most judges still rely on a "winner takes all" approach in custody battles. In some three-quarters of cases, judges grant sole custody to mothers, believing that it's impossible for warring parents to make shared custody work, Kruk's report finds. That's despite a growing body of research that shows animosity and even physical violence can increase "significantly" when one parent has sole control, says the report, *Child Custody, Access and Parental Responsibility: The Search for a Just and Equitable Standard*.

Even court-ordered "joint custody" is really a misnomer, Kruk's report shows. In fact, the non-custodial parent – usually the father – ends up with just a few days a month (typically every second weekend and every Wednesday) with the children. While research shows even that minimal sharing of time actually forces warring parents to lay down their arms and work together on "parenting plans" that work best for each of them and their kids, says Kruk, it makes it far more difficult for the non-custodial parent to develop a strong bond with their kids.

Research has shown that women and men work comparable amounts of time outside the home and now devote almost the exact amount of time – 11.1 hours a week and 10.5 hours a week respectively – to child care, with men playing a key role in their children's upbringing, says Kruk. Yet divorce lawyers openly tell fathers not to waste their time and money seeking equal custody, unless they can prove the mother is unfit.

All of which gives one parent a huge psychological advantage over the other, and incentive to fight to the death – in some cases actually alienating the kids from the other spouse – to win what comes to be seen as their "property," says Kruk.

But there are signs even mothers are at risk, Kruk warns. He's now studying 14 Vancouver-area women who have lost custody of their kids to their ex-husbands, in some cases because fathers argued that demanding careers kept the women away from home too much. Surprisingly, those women are now teaming up with fathers' right groups to push for legislation making equal, shared parenting the norm.

"No court order can make people get along," says Justice Harvey Brownstone who wrote the book *Tug of War* on divorce in Canada. He has seen cases over the past 14 years in which courts imposed shared parenting, only to have one parent refuse to take the child to his hockey game or administer medication as a way to make their viewpoint known to the ex-spouse.

"Parents who are hell-bent on undermining each other's relationship with the child will inevitably find a way to create conflict, which most often results in further litigation, which in turn prolongs the child's exposure to a parental tug of war."

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