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Canada's Alternative Women's Movement



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November/December 2009

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THE FAMILY HITS THE SPOTLIGHT

**By C. Gwendolyn Landolt
National Vice President
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Western nations are looking at the shambles their countries have become. A great increase in family breakdown (divorce and separation) resulting in increased substance abuse, alienated youth dropping out of school with no skills, and an ever increasing number of children raised in single parent homes, are just a few of the problems facing nations today. This has led to government policy makers, churches and charities trying to make sense of both the causes and consequences of family break-up. Consequently, the future of the family has now been placed at the top of the political list of priorities.

For example, British Prime Minister Gordon Brown talked about family values at the annual Labour Party Conference in Brighton, September 27-October 1, 2009. The UK opposition leader David Cameron told his party members that the family lay at the heart of his beliefs. Other government leaders in Russia, France, Poland, Latvia and Romania are expressing similar concerns.

As a result of these concerns, conferences on the family are springing up in the western world. The Congress of the Families, held in Amsterdam in August, has been followed by a similar conference, held in October in Malta. The latter conference was jointly organized by the Qatar based Doha International Institute for Family Studies, the University of Malta's Centre for Family Studies and the Cana Movement, a lay Catholic organization. Another conference on the family was held in late October in Gdansk, Poland.

Speakers at these conferences make clear that marriage is the best institution for the raising of the next generation and the best way for adults to find fulfillment.

Incorrect Assumption About Single Mothers

The common assumption in the past has always been that the problem of single mothers has been due to poverty, and the remedy for this was for the state to give single mothers a home and enough money to live on. There is now irrefutable evidence, presented at these conferences, that this policy on single mothers has created a perverse incentive to adopt the negative behaviour that attracts the benefits. In effect, such government policy deliberately produces fatherless children, supported by the state, along with destruction of the father's role in the family.

The consensus is now emerging in social sciences that the biggest handicap that a child can face is the absence of a father figure while growing up. Unfortunately, the deliberate alienation of the father (and sometimes the mother) is one of the common side effects of separation and divorce (see article "Parental Alienation Syndrome", p. 9).

According to Statistics Canada, in 2004, custody was awarded in cases of divorce and separation to the mother in 45.0% of the cases, while fathers were awarded custody in only 8.1% of the cases. Custody was awarded to the mother and father jointly in 46.5% of the cases. However, in

such joint custody arrangements, children do not usually spend equal amounts of time with each parent, but rather one parent retains physical custody, usually the mother, and the father is customarily awarded access rights only.

Special Joint Committee on Child Custody

The 1998 Report of the Special Joint Committee of the Senate and House of Commons on Child Custody and Access recommended that all child custody awards in divorce cases commence with the rebuttable presumption (a presumption that can be overturned on evidence to the contrary) that the father and mother have equal parenting rights with equal legal responsibility and joint physical custody of the child. A Nanos Research poll, conducted during March 2009, indicates that 80% of Canadians support equal, shared parenting after divorce. These results are nearly identical to a Nanos Research Poll, conducted in 2007, on the same question.

Private Members Bill C-422 – Shared Parenting

What then can be done to ensure that both the mother and father are closely involved during a child's growing years? One answer is to pass legislation to ensure shared parenting, as recommended by the parliamentary committee in 1998. This policy was the basis of Private Members Bill C-422, sponsored by MP Maurice Vellacott (Saskatoon-Wanuskewin). At REAL Women's annual meeting, held in Edmonton in June, a resolution was passed to support MP Maurice Vellacott's bill on shared parenting.

Evidence in support of this bill has been provided by Prof. Edward Kruk M.S.W., Ph.D. (edward.kruk@ubc.ca) of the University of British Columbia. In the Executive Summary to his report he stated: "Research is clear that children fare best in post-separation relationships in which they maintain meaningful routine *parental* relationships with both of their parents beyond the constraints of a 'visiting' or 'access' relationship, in which they are shielded from destructive parental conflict, and in which they are protected, to the highest degree possible, from a marked decline in their standard of living. Contrary to current practice and dominant socio-legal discourse in Canada, when parents disagree over the living arrangements of their children after separation, new evidence suggests that [the] conditions [for children] are best achieved **by means of a legal shared parental responsibility presumption**, defined as children spending at least 40 per cent of their time with each parent, rebuttable only when a child is in need of protection from a parent."

Minister of Justice Rejects Shared Parenting

Minister of Justice Rob Nicholson, however, in a statement to the Canadian Bar Association in August 2009, stated that joint custody presumptions should not usurp the "best interests of the child" standard, which he maintained should remain the paramount consideration in custody and access decisions under the *Divorce Act*.

REAL Women agrees that the best interests of the child should **always** be paramount, but in our view, the presumption of shared parenting would ensure that this occurs. It is to be noted that shared parenting would be a rebuttable presumption which can be overridden by evidence that shared custody would not be in that child's "best interests." The shared parenting presumption supports the critical concept that a child should have both a father and a mother as an integral part of the child's life unless, of course, such an arrangement is shown not to be in the child's "best interests".

Provide Legislative Support for Parallel Parenting

There are situations, however, where parents cannot always get along and work together, even though they both love and care deeply for their child. In such circumstances, parallel parenting regimes would permit both parents to have joint custody, yet split decision-making authority between them. For example, one parent could be given responsibility for all medical and extracurricular decision-making and the other, responsibility for all educational and religious/cultural decision-making. Each parent is therefore able to maintain an active role in a child's life, rather than becoming, as too often is the case, a "weekend" parent. This position has been upheld by Mr. Justice Paul Perell of the Ontario Superior Court in his well-reasoned decision in *Mayer v. Douglas*, (2008). In that case, he ordered a parallel parenting regime in a family situation fraught with communication and cooperation problems. The judge noted that in many cases, sole custody orders could be quite arbitrary, particularly when there is evidence to show that each parent exhibits good abilities to parent the child. In such circumstances, Mr. Justice Perell concluded that parallel parenting was the appropriate solution.

Obviously, the courts now recognize that it is in the children's "best interests" to have each parent play an active and meaningful role in their upbringing. This includes active decision-making, and this would be accomplished by way of shared parenting or parallel parenting described above.

Feminists Oppose Shared Parenting

Since shared or parallel parenting is obviously to the advantage of the children, then why has it not been implemented? In a word, this has been due to intense feminist pressure as the latter are resolutely opposed to shared parenting. For example, when the Joint Committee of the Senate and the House of Commons proposed joint parenting in its 1998 report, the then feminist Minister of Justice Anne McClellan, aided and abetted by the feminist lawyers in the Department of Justice, totally ignored this recommendation.

Status of Women funded feminist organizations, such as the organization National Association of Women and the Law (NAWL), recently made a submission to the Department of Justice on the issue, rejecting Mr. Vellacott's shared parenting bill. The Feminist Alliance for International Action (FAFIA) (see article "Status of Women Must be Disbanded", p.1) has submitted its own objections to shared parenting. The reason that shared parenting raises feminist hackles is due to the fact that, if it were to be implemented, women would no longer be assured on divorce of having control, as well as physical custody of the children of the marriage, as is the current situation. Therefore, feminists regard Bill C-422 as a severe undermining of their "entitlement" to the children of the marriage upon separation and divorce.

Since most divorces in Canada are initiated by the wife, women might not be quite so quick to initiate divorce proceedings if there was a real possibility that they would not have custody of their children on divorce, as they do at the present time.

Please write to the following to indicate your support for joint parenting (Mr. Vellacott's Bill C-422).and parallel parenting

The Right Hon. Stephen Harper
Office of the Prime Minister
80 Wellington Street
Ottawa, Ontario, K1A 0A2
Fax: 613-941- 6900

The Honourable Robert D. Nicholson?Minister of Justice and Attorney General of Canada?284
Wellington Street?Ottawa, Ontario K1A 0H8
Fax: 613-954-0811

Your MP
House of Commons
Ottawa, Ontario K1A 0A6

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