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Equal Parenting

Finding an equitable arrangement in divorce is important. Better still are parents who can stay together

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Last summer *National Post* columnist Barbara Kay asked this question: “When can divorced Canadian fathers – and their children – expect justice, so long demanded, so long promised and so long deferred?” [1] She’s not the only one. Equal parenting has been getting more and more attention, in particular when Dr. Edward Kruk released *Child Custody, Access and Parental Responsibility: The search for a just and equitable standard* in December 2008. Then on June 16, 2009, Maurice Vellacott, Member of Parliament for Saskatoon-Wanuskewin introduced Bill C-422. [2] It’s an equal parenting bill, which seeks to amend portions of the Divorce Act to change the legal presumption of sole custody in divorce disputes to one of joint custody.

Certainly, this bill is an important step in the right direction for alleviating the distress of children and fathers, who are most likely to be alienated from their children after family breakdown. Equal parenting is indeed in the best interests of children as it replicates the intact family in a fractured family. But discussions of equal parenting tend to forget the main point. Divorce—even when judiciously applied—does not serve children, fathers, or families well.

So what is equal parenting? Joint custody or equal parenting are terms used to describe divorce arrangements where both parents retain custodial rights of children. This means that children spend time with both parents and both parents retain the ability to make daily and long term decisions about their

children. In 2004, 41.8 per cent of all divorce disputes in Canada ended in joint custody, 49.5 per cent of mothers were awarded sole custody and just 8.5 per cent of custody decisions were awarded solely to fathers. [3]

One reason for the increase in popularity of equal parenting might be that retaining joint custodial rights for both parents encourages involvement from both the mother and father of a child and leads to an increase in the child's overall wellbeing. [4] Dr. Kruk's recent research illustrates this fact by concluding that children of joint custody arrangements fare better than their sole custody counterparts. [5]

On the whole, however, children of divorce still fare worse emotionally, socially, and academically when compared to children from intact families. [6]

The tough question that goes unasked in discussions of equal parenting is this: If parents can sacrifice their own personal interests for the benefit of their children in divorce, could they not sacrifice for the even better good of staying together?

Just asking this question is to risk being castigated as heartless. Who would ask someone to stay in a terrible marriage? But while our culture maintains the belief that divorce provides blissful relief, the research shows that divorce and separation don't always lead to happiness.

A report by American academics, including renowned sociologist Linda Waite, states that "two out of three unhappily married adults who avoided divorce or separation ended up happily married five years later." [7] The report finds that "[d]ivorce did not reduce symptoms of depression for unhappily married adults, or raise their self esteem, or increase their sense of mastery, on average, compared to unhappy spouses who stayed married." [8]

Certainly, not all marriages can be salvaged. But researchers distinguish between "low conflict" and "high conflict" marriages. Though the report states there is no consensus on how to define a high conflict marriage, this might include verbal or physical abuse. A low conflict marriage headed for divorce is one that is more likely to be able to be salvaged were appropriate supports, help and counseling applied. In Canada, a maximum of 15 per cent of divorces are the result of high conflict marriages. [9] And though staying together to resurrect a marriage on the rocks requires tremendous effort, neither is getting divorced without work and complications.

Speaking of complications, there's the financial side. Recent research by the Institute of Marriage and Family Canada highlights that a broken family is at greater risk of living in poverty. Lone parents are, in every province, substantially more likely to live below the Low Income Cut-off (LICO) or be on welfare. [10]

Conversely, the benefits of happy marriages are numerous, including improved health outcomes, a greater propensity to build wealth, and decreased levels of crime and violence from within the family. Improved happiness is another reported benefit of a solid marriage and this is found across a wide range of countries and cultures. In a cross-national study a relationship between marriage and happiness was found in 16 of 17 participating countries, including Australia, Britain, Japan and Sweden. [11] The difficult question, of course, is how to achieve or rebuild this happiness. At least part of the puzzle will be the public awareness that a low conflict marriage can oftentimes be resolved and lead to happiness—where risks in divorce for children remain.

None of this is meant to downplay the shift toward equal parenting in divorce. This is a positive development, which ironically manages to give preferential treatment to two parents in divorce, by correctly identifying that this matters to children, even when families break down. Equal parenting in divorce would be a positive accomplishment for families that fail. However, that accomplishment should never overshadow the bigger picture—that of striving toward marriages that stay together, not by force, or by gritting teeth, but rather because the marriage is happy and thriving, even after hitting a bump in the road.

Endnotes

[1] Kay, B. (2008, July 18). Give Dad a Chance; Research show that two parents are better than one. So why does the legal system still favour mothers? *National Post*, p.A13. Retrieved June 30, 2009 from: <http://network.nationalpost.com/np/blogs/fullcomment/archive/2008/07/17/barbarakay-on-the-perils-of-divorced-fathers-for-the-sake-of-the-children.aspx>

[2] House of Commons Canada. (2009) C-422: An Act to amend the Divorce Act (equal parenting). Ottawa: Public Works and Government Services Canada. Retrieved June 10, 2009 from <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=3995880&Language=e&Mode=1&File=24#1>

[3] Kruk, E. (2008). Child Custody, Access and Parental Responsibility: The Search for a Just and Equitable Standard, Father Involvement Research Alliance (FIRA), University of Guelph, p. 24. Retrieved June 10, 2009 from http://www.fira.ca/cms/documents/181/April7_Kruk.pdf

[4] Ibid, p. 9.

[5] Ibid, p. 11.

[6] Amato, P. (1994). Life-Span Adjustment of Children to their Parents' Divorce. *The Future of Children*, 4 (1), p. 145.

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[7] Waite, L., Browning, D., Doherty, W., Gallagher, M., Luo, Y. and Stanley, S. (2002). Does Divorce Make People Happy? Findings from a Study of Unhappy Marriages. New York: Institute for American Values, p. 5. Retrieved June 10, 2009 from <http://www.americanvalues.org/UnhappyMarriages.pdf>

[8] Ibid, p. 4.

[9] Department of Justice Canada (2004). The Early Identification and Streaming of Cases of High Conflict Separation and Divorce: A Review. Retrieved June 30, 2009 from http://www.justice.gc.ca/eng/pi/pad-rpad/rep-rap/2001_7/fram-formu.html

[10] Mrozek, A. and Walberg, R. (June 2009). Private choices, public costs: How failing families cost us all, Ottawa: Institute of Marriage and Family Canada, p. 10. Retrieved June 20, 2009 from http://www.imfcanada.org/article_files/Cost%20of%20Family%20Breakdown%20finalHR.pdf

[11] Stack, S., Eshleman, J.R. (May, 1998). Marital Status and Happiness: A 17-Nation Study. *Journal of Marriage and the Family*, 60 (2) pp. 527-536.

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