

What is Equal Shared Parenting?

by a Director of Fathers Are Capable Too: Parenting Association

We get all kinds at a FACT support meeting (Fathers Are Capable Too: Parenting Association). At a recent meeting, aside from our regular custodial dad, non-custodial mom, and varying forms of unequal shared parenting arrangements, we had a non-custodial father who had just got his kids when Children's Aid took them from their abusive mom, a dad who was still going to supervised access after 8 years, another dad who was in financially meltdown, partially due to court ordered payments to cover mom's drug addiction, a couple who were attempting to extract his children from maternal neglect and associated PAS, and a "normal" case where the guy was trying to wrap his mind around the fact that his ex had de facto custody because he left to go to work.

I mention this to show how that despite the incredible variety of cases, they are all fundamentally solved with the same medicine: equal parenting. Equal parenting provides something that no other parenting arrangement provides: quality assurance. If one parent is failing to provide adequately in one part of the overall parenting domain, the other parent can easily, and legally, step in and help. The child can get help in math at one home, help in French at the other, and help in personal relationships at either. And if one parent is stressed out to the extent of harming or neglecting the child, the other parent can be the child's champion ... and yet not sever that stressed parent completely because that leads to ... the next paragraph.

Relationship breakdowns are acrimonious affairs. But far more acrimonious are relationships that are forcibly broken down by someone outside the relationship. It's a great way to generate outright hate. There is one activist in Ontario who specialises in "shotgun divorce" cases (where the State says "if you don't divorce, you'll never see your children again"), but I'm talking about a "normal" divorce, where the child's relationship with one of their parents is often permanently severed, with neither the child nor the affected parent desiring it. This is a fundamental denial of the Charter right of association; not merely denying the 'form' of the relationship (as the gay-marriage advocates say), but a denial of the relationship itself. In no other case, does the State jump in with police powers and forcibly prevent people from associating with each other when they wish to associate.

So when parents sense that they may lose their child forever (because the child, being so young, will not have the capability of recovering the relationship on its own), they react to this impending doom. Sometimes they flip out and do outrageous, and illegal things ... like the mother who kidnapped her triplets, or the murder-suicides (like the mother who shot her ex-husband in Oakville last year). But these are caused by the lack of personal security: if this precious relationship was secure then the parent could consent to temporary measures to help both parents over the impasse. Currently, there is no such thing as a temporary measure (who believes the "interim" part of "interim custody").

So, here is the key element of Equal Parenting: have the system work to reduce tension, rather than the current "winner take all" system that encourages enflaming the situation and

family and child dysfunction.

Children inherently have no real rights because they cannot enforce any "rights" on their own. A child requires a champion to work the system. The government cannot provide this champion because the government does not know the child, and neither does the bureaucrat assigned the case. Only the parents do, and only if they live with the child a substantial amount of the time. A child has no control over the money, even if it is in the child's name. Thus, a child has only two assets: Mom and Dad. Everything else is an illusion.

Divorce has a huge, but unmeasured effect on the economy. All Western developed countries have a similar divorce process, so we don't have any effective data to measure divorce's impact. However, note that the surest way to gain custody of your child is to quit work. The usual way of losing custody is to go to work. By stepping out the door, you've stepped out of the child's life, possibly forever. This is not a productive way to run an economy. Using the court process to recover a relationship with your child is often so exhausting, that it is a frequent occurrence that men lose their jobs (due to poor performance), and then, unable to pay support, they start a downward spiral that leaves them as largely unproductive members of society.

Taxpayers support divorce, and taxpayers support the added cost to society of single parent homes. Child support cannot possibly be high enough to pay these added costs without destroying the life of the payor (and his capacity to earn). Using the guideline amounts for child and spousal support, a payor can see 70% of this income deducted at source, more if there are add-ons or if the income is imputed at a higher level. The Laffer curve (tax-policy concept) indicates that this produces less revenue overall. Downloading welfare onto an individual is poor policy. An average earner payor is prevented from forming stable new relationships ("moving on") owing to the huge financial stress they are under. An average recipient is demotivated from seeking employment since for each dollar earned, taxpayer support is reduced by 70 to 80 cents. The essence is: two households cost more than one, so, for average earning households, the taxpayer must pay to make up some of the difference.

Equal parenting tends to reduce the overall divorce rate; if you know you will always have to deal with the other parent, there is a stronger desire to have the marriage work. This is born out in several American states that have a presumption of (legal) joint custody.

Equal shared parenting is now the law in Iowa (since last July).

This issue cannot be fought directly in the courts, because the primary losers in the change from the adversarial system to a system based on equality are the lawyers and judges themselves. Divorces represent a huge amount of income to the legal profession, money that could have been used to raise the children. FACT attempted to bring forward a constitutional challenge, but the court would not hear it. Other groups can have their challenges heard with far fewer members. The custody/access portion is not really possible to bring forward in an individual case owing to the nature of the cases; the initial court process is slow, the appeals process is slow, the children are grown up and gone before the Supreme Court would ever hear it.

The groups that will most adversely affected by ESP are lawyers, judges, assessors, and other elements of the legal system. Most ESP activists can relate to this: divorce lawyers will not be able to charge such massive fees when the consequences for failure, and the probability of failure are substantially reduced (failure in this case means losing a meaningful role in your child's life). Although this is the obvious change, the system will still play a role in dealing with mediating lower level things, and, more importantly, teaching the parents to be reasonably co-operative (since otherwise they will be racking up the mediator charges). However, there is a secondary effect that impacts the legal system:

Children of divorce currently learn just how easy it is to ignore the court. They live with the custodial parent, who is court ordered to facilitate access. Yet that parental role model flouts the court order. And the child certainly sees it. The child certainly senses the injustice of one parent lording it over the other, preventing access on a whim. After all, the child is directly affected by access denial; directly abused by it. The child learns that courts, police, and other elements of the justice system are powerless against the custodial parent. With that lesson well learned, the child grows up, becomes independent, ignores authority and flouts the law. Is it any wonder that children from single parent homes are far more likely to be involved in crime?

One should note that neighbourhood crime statistics correlate more with single parent homes than income levels. Poverty no longer generates as much crime as single parenthood does. Criminal lawyers will lose business if crime is reduced.

Equal shared parenting lays the foundation for effective access enforcement, since it changes the norms of society. If everyone expects equality between the parents, then the abnormal denial of one parent will be readily seen as child abuse, and actions will be taken by neighbours, the schools, and other members of the community to correct so obvious an abuse.

Some people suggest that equality between parents is somehow anti-woman. We should note that back in the 1960s, when the American feminist organisation NOW was founded, one of their principles stated that equality in employment could never be achieved as long as their wasn't equality in child-care within marriage (they dropped this line more than 20 years ago). Dr. Kruk's study of the "Disengaged" non-custodial fathers suggests that parenting roles have evolved since the 1960s, with fathers taking on a more hands-on role. With mothers in the workforce and fathers changing diapers, both parents are in both traditional roles, and yet the sole-custody presumption in divorce reflects that old model of sex-specific roles. Kruk shows that being shunted out into the NCP role immensely hurts fathers who were actively involved in parenting during the marriage. They go into "chronic grief" (the experience, I'm sure many have had it, of feeling that your child has just died, every time you hand your child over to your ex). This grief can destroy one's soul, and hence one's productivity.

ESP recognises that parental roles have changed. Oddly, that makes us more feminist than the women's groups (who are not seeking equality, but only things that are good for women ... forget children and don't even mention men). With shared parenting within the marriage, we must have equal parenting after a marriage; otherwise one parent will drop into "chronic

grief" and become a burden to society.

Lastly, this is a human rights issue. There is only one group that is specifically targeted by special laws to have their assets seized, their bank accounts frozen, and be placed in jail without ever committing a crime(*). Support payors with chronic grief. ESP works to remove the grief.

*Actually, they are victims of a crime, child abduction. However, the court legalises the crime when it "awards" sole-custody.