

NATIONAL CHILD'S DAY

November 20 is National Child's Day. National Child's Day was established by the Government of Canada to commemorate Canada's adoption of the UN Convention on the Rights of the Child on November 20, 1989 and the Declaration of the Rights of the Child on November 20, 1959. Amongst the rights given to children is the right to both their parents, and the right to see both their parents, except in very unusual circumstances.

Groups like FACT recognise the rights of children to their parents, and the corresponding rights of parents to relationships with their children. Unfortunately, despite being a signatory to the Convention along with just about every other country in the world, the governments of Canada (and Ontario) do *not* recognise these children's rights. On a regular basis with little or no justifiable reason, the courts sever parent-child relationships.

At a marital separation these parent-child relationships are sometimes severed directly. Other times, the courts will pay lip service to a relationship and then refuse to protect the rights of these children to see at least one of their parents — with terrible consequences to parents and children. Over the last 5 years an average of 40,000 children per year have had their parents divorce. Children affected by common-law separations are not tracked, but likely affect a similar number of children each year.

Such parental separation is a chief factor in the majority of child suicides. In men, relationship breakdowns have been estimated to account for about 70% of the 3,200 male suicides in Canada annually — more than one death each 3 hours. Suicide has become the leading non-medical killer of men in most age groups. The courts have been prime contributors to these problems.

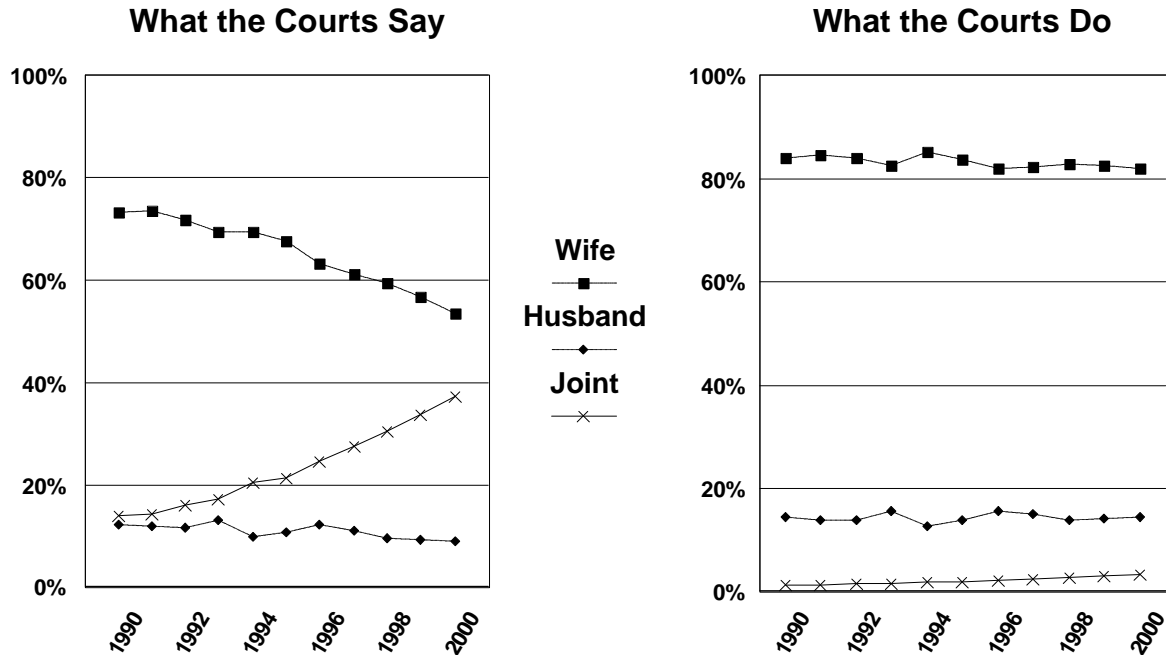
Inherent in the courts of family law in Canada are custody and access policies that create child poverty. In addition, the billions of dollars forced from Canadian families and their children aggravate the problems of poverty and leave the children disadvantaged when it comes to funds for schooling, clothing and accommodation. One does not destroy the asset base of the parents and expect that it does not have an impact on the children. Of course, judges (the highest paid profession in Canada) and family law lawyers take too much money to even begin to appreciate the problems this creates for others.

So what is the answer?

It is our feeling that the answer lies in removing inequalities and diffusing the tensions that are fanned to create huge dissension between partners. It is time to free the children from wars created by the "justice system". It is time for a concept like *equal shared parenting* to be implemented in Canada honestly and fairly — and not as just as "spin" as the judges have done with joint custody. Under equal shared parenting parents are jointly and equally responsible for the care of their children after divorce, just as they were before. Parents have the opportunity to change the allocation of times and tasks in respect of the children if they do so by mutual consent, but if there is disagreement, the arrangements will be one of joint and equal responsibility of care and time. Under certain rare circumstances, such as where it has been proven that the child has been abused or neglected by one of the parents, the situation may be modified, just as would happen whether the parents were together or not.

Equal shared parenting as a rebuttable presumption gives our children a chance. In addition, Canada will finally be living up to its obligation to recognise a right of children — the right of children to both of their parents.

Custody Awards & Spin



The courts in Canada will tell you that there is an increase in the number of joint custody decisions. What has actually happened is that the courts have defined a new term “joint custody with primary residency to ...” that is effectively synonymous with “sole custody to...”. The primary residential parent has control over all day-to-day decisions to do with the child — namely education, health, whether the child sees the non-residential parent, whether the child is moved thousands of miles away. There are effectively no known major decisions in which the non-residential parent participates and no requirement for any contact with the child. The result is that more than 40% of the “non-residential parents” are excluded from their children’s lives.

Private surveys and surveys conducted by the Department of Justice continue to show that more than 70% of Canadian men and women believe that both parents should be actively involved with their children before and after separation. The federal Department of Justice studies indicate that 80% of children in joint custody live exclusively with one parent and another 10% live “primarily” with one parent. Ontario. Only about 10% of joint custody children are with both parents.

The courts know what they are doing, but clearly choose to hide the reality behind good. Canadian statistics indicate that the courts are making the custody and access decisions in more than 50% of the cases of divorce and separation in Canada. The balance, who reach their decisions “jointly,” do so with the knowledge of what these judges will do if the case appears before them. Until you have been in family court, you may think that these appointed civil servants are looking at justice, fairness, equality and the best interests of children. However, the record speaks for itself.