Custody of Children After Divorce

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There has been an alarming number of divorces seen in the recent years especially in the contemporary developed societies. With them comes the challenge of children custody, a topic that remains elusive and controversial to this very day. Many legal tangles and endless court attendances have characterized almost every other divorce with both parents fighting for the custody of the children further complicating the already intricate process. However, many courts rule in favor of the mother reserving the rights for custody and the father allowed visits (Grall, 2002). This paper will, in effect, look through the debate to ascertain if the mother should be awarded the privilege for custody against other empirical studies that show the benefits of having joint custody.

Custody of children has and will continue to present some pronounced challenges especially to public policy and more specifically the family laws. In the past, mothers have often won cases of custody that has almost brought about a fallacy that they have more rights when it comes to custody that fathers do. However, it is easier to see why they have customary won such legal suits the first reason being that a significant number of children in America are born out of wedlock. As such, some family laws put such children under the custody of the mother by default until any other ruling or directive from the family court is given (Edlund, Haider, & Pande, 2005). It becomes increasingly hard for fathers who have never been part of the child’s life at any point to win a custody lawsuit. Mothers, on the other hand, usually develop a substantial relationship with the child and this explains why they are customarily in a higher likelihood of winning custody of the children. In such cases, it is only reasonable that the mother retains the custody of the child since they have been in essence the main caregivers and since children grow attachments, ripping them off from the only close relation they know could have a correlated psychological effect on them
The other rather obvious reason why mothers should get children custody is that mothers remain the main child caregivers even in the context of marriage. Mothers nurse the children and spend much more time with the children than fathers do in many family settings and as such, children grow more attachment for their mothers than their fathers (Main, Hesse, & Hesse, 2011). Since the primary caregiver is a consideration factor during the determination of the child’s custody, mothers tend to have the upper hand and this increases, and with good reason, their chances of winning custody. As such, even for children born in wedlock, the mothers have a better ground for claiming custody seeing they are often the main child caregivers in almost every other society. Perhaps, the biology of nursing subconsciously preset the mind of those awarding custody in favor of mothers since they literally feed the child from their bodies (Braver, Ellman, Votruba, & Fabricius, 2011). Again, this brings in the reality that a mother will always have more responsibilities to the child than a father will and this warrants them the right to retain the child’s custody.

However, the recent trend in family laws and legislatures are in an effort to make custody rights an equal chance for both the mother and the father. This is clear from current trends where an increasing number of fathers are winning the right to custody in a significant number of such cases. A good number of legislators now acknowledge that fathers have equal rights to be the children’s custodians as mothers do (Meyer, 2005). This is especially true where mothers of such children may be unfit to take care of the children or have in the past shown tendencies of negligence. In effect, a father meeting legal requirements should have an opportunity in the same measure as a mother does in being awarded the custody of the children following a divorce. A child needs a father as much as then need a mother, especially in their early lives. Some studies
have also shown that children raised without fathers undergo various psychological problems and even bullying in their early school lives.

Needless, a joint custody would be ideal if the welfare of the child was the main concern in such lawsuits. A child equally needs a father and a mother for proper holistic wellbeing and absence of one part has an impact on their overall growth and wellness. When a marriage is irredeemable, it would be wise for both the parents to work out on a joint custody to give their children the chance to have both maternal and paternal inputs. Children are at a vulnerable developmental stage, and a divorce may negatively impact especially on their social lives (Elrod & Dale, 2008). A smooth transition would include an arrangement where they can keep close contact with both their parents of course with the exception of either or both being deemed unfit. The best interest of the child should, therefore, be a guiding principle in determining their custody whereby having both parents equally involved in the welfare of the child being advantageous compared to single-parent custody (Elrod & Dale, 2008).

Conclusively, mothers tend to be the ideal choice for custody for the reasons mentioned such as attachments and being the main providers of care for children, especially in their early years. As such, it is reasonable that they are given the custody of the children after a divorce as long as they meet legal requirements for such a responsibility. However, custody to mothers should not come automatically based on unspoken natural laws as such has led to the debate whether custody laws favor mothers more than mothers. Such a decision should be based on the fitness of the mother to responsibly execute their responsibilities and children born to drug addicted or physically abusive mothers, for instance, should be denied custody. In effect, mothers tend to be in a better position to care for children especially since they have such nature
ordained responsibilities such as nursing and children tend to form significant attachments with them.

References


