

During the past twenty-five years, women have welcomed the efforts of the federal government and the provinces to develop legislation and services that facilitate the peaceful cessation and the fair restructuring of intimate partnerships. Overall, these reforms have recognized the reality that, because women typically do not have the same economic resources as their male partners and, at the same time, they have primary responsibility for children's care, they do not arrive at the moment of separation in exactly the same position as men. Governments know that, for the sake of equity, women need legislative safeguards and mandated services.

Here on Prince Edward Island, things began to change when the 1978 *Family Law Reform Act* defined marriage as a "partnership of equals," a new principle which removed women from their traditionally subordinate role. However, this legislation did not go so far as to include business assets in its "equitable" division. That only changed in 1995 when the *Family Law Act* rectified the situation. Canada's *Divorce Act*, proclaimed in 1986, was another welcome change. The "no fault" divorce process meant that women did not have to go to court and prove that their partner had caused the marriage to break down nor would they have to appear in court to defend against such a charge.

And, along the way, women and children have been supported by legislation and services regarding custody arrangements and support orders. This is of particular importance to women because the mother has typically been awarded custody and the father has typically been given responsibility for paying child/spousal support.

Things have not been perfect, though. Even with legislation behind them and services to support them, women still find it more difficult to end relationships than men do. Experience and research shows that, in about one in five situations, the woman will continue to struggle with a former partner as he fails to fulfill his responsibilities to maintain contact with their children and to pay court-mandated support regularly and on time. And, in a worst case scenario, she may have to deal with a hostile former partner who was abusive during the relationship and who continues that abuse after the relationship ends. These are very real and distressing possibilities for any woman contemplating ending a relationship. She needs to know that, if the worst case happens, she has society's support behind her.

Lately, women have had to face other, more institutionalized, impediments besides those posed by their former partners. During the 1990s, as provincial governments worked to enforce maintenance payments and as the federal government established new child support guidelines, "father's rights" groups gathered momentum and gained media attention throughout Canada and here in Prince Edward Island, with members protesting that they were being asked to support their former partners and their children without having any care or control of the children.

Of course, custody and support are separate issues. Adults have responsibilities towards their dependant children, no matter what. But, interestingly, since the Government of Canada passed *Bill C-41* in 1997 and linked a percentage of time spent with children with the amount of support required, "joint custody" has begun to look more attractive to non-

custodial Canadian fathers whose support payments decrease considerably at 40% custody. A woman involved in such a scenario is left with exactly the same child rearing expenses while receiving less money to meet them.

This maintenance backlash went public in 1998 when the Special Joint Committee of the Senate and the House of Commons on Child Custody and Access hosted nationwide hearings. Here on Prince Edward Island, individual women participants and women's groups who presented to this committee were shocked at the hostile reception that they received. They still talk in wonder about the committee's anti-woman bias and their overt support of "father's rights." The Committee's report, *For the Sake of the Children*, advocated an assumption towards awarding joint custody and women's groups denounced that notion as being unworkable, unfair, and potentially unsafe.

Now, women anxiously await the results of a nation-wide consultation around possible amendments to the *Divorce Act*, hoping that the federal government holds the position that no one custody or support arrangement is right for all families and fearful that they may be forced into having to prove that joint custody will not work in their situations.

Women are also wary about an assumption that has been creeping into society's consciousness - the belief that going to court to assert your rights is the wrong thing to do. Instead, women face pressure to mediate their settlements. Mediation is fine if it involves two equal partners working out matters under the guidance of a skilled, professional mediator, but it can be damaging when one partner manipulates the process to ensure that the settlement meets their needs. A bias towards mediation could simply be a more subtle form of backlash against women using the power of the law to maintain their rights and the rights of their children.

Conclusion

Here on Prince Edward Island, women face all these issues without the support of an adequately funded legal aid program that would enable all income-eligible women to maintain their economic security and physical safety throughout the separation process. At the same time, women in common-law situations do not have the same property rights as married women and government has not addressed same-sex partnerships at all. Much has been done but more is required to achieve a state of true equity for all Island women. The Province is currently working on new ways to deliver more accessible and appropriate services and Island women look forward to seeing what that will look like in reality.