



C'tee: End gender discrimination in custody cases

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Justice Ministry looks to change Tender Years Presumption Law, which gives mother custody until child is 6, unless court finds her incapable.

A Justice Ministry committee charged with assessing a controversial law that determines which parent will receive custody of a child during divorce proceedings reached its conclusion Sunday, calling for Justice Minister Daniel Friedmann to revoke the 40-year-old law and replace it with a more gender-equal alternative. Known as the Tender Years Presumption Law, the current legislation presumes that a mother should gain custody of a child until that child reaches the age of six, unless the court is convinced that the mother is incapable of doing so. "Guardianship is the responsibility of both parents, even after divorcing," wrote the committee, which was headed by Prof. Dan Schnitt, in its final assessment. Made up of judges from both the secular and religious court systems, lawyers, non-government professionals, academics and medical staff, the committee decided that the courts should instead place emphasis on "what is best for the child in order to ensure his or her healthy development." "[Therefore], the committee recommends taking out the 'early years' clause and establishing guidelines by which [a] court will make a specific decision on each case," the committee said Sunday. Last month, Welfare and Social Services Minister Isaac Herzog announced his intention to push the committee to wind up its deliberations, as well as demand stricter guidelines for child welfare officers in determining custody issues. His call came following numerous complaints from fathers-rights organizations claiming that the current system does not allow equal consideration for men who want an active part in raising their children. According to the most recent ministry statistics, there was an 18 percent rise last year in the number of divorcing couples that family courts assigned to be evaluated by welfare officers. Of those evaluated in 2007, 2867 women were granted sole custody of their children, compared to only 534 men. Only 167 couples were given joint custody. Dr. Ruth Halperin-Kaddari, chairwoman of the Rackman Center for the Advancement of the Status of Women, a member of Bar-Ilan University's Faculty of Law and Israel's representative on the UN Committee on the Elimination of Discrimination against Women, has told *The Jerusalem Post* that any changes to that "tender years" law could "increase the potential for legal battles" and weaken the position of women in divorce proceedings in general. She pointed out that the concept of gender equality presented in Western countries has no basis in Israel, where women's rights in lifecycle decisions are governed by the religious courts and Jewish law, which, she says, clearly favors men.



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