

Distraught Fathers Vent Anger at Divorce Conference

by IsraelINN Staff

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(Israelnationalnews.com) An academic conference on a proposed change in Israeli divorce law – the annulment of the Tender Years Clause which grants automatic physical custody over young children to their mothers in divorce cases – turned into an emotional and stormy session as academicians, divorced fathers, social workers, feminist and non-feminist speakers argued in heated tones.

The conference, which was held in the Netanya Academic College, was chaired by Dr. Yisrael Tzvi Gilat, and the panel included Prof. Dan Shnitt. Shnitt is currently chairing a committee which was appointed by Tzipi Livni when she was Minister of Justice, and which is expected to recommend legislating an alternative to the Tender Years Clause.

The Welfare Ministry's Deputy Director, Moti Vinter, told the assembled audience that the ministry favors the annulment of the Tender Years Clause. "We think that the family institution is changing, society in Israel is changing, men are becoming more involved in the institution of family," he said. "I think that the decision by Welfare Minister Yitzchak Herzog to enable the possibility of adoption by homosexuals and lesbians definitely proves... the willingness to adjust to far reaching change in Israeli society," he explained.

Vinter said, however, that the fact that Israel has a rabbinical court system makes it different from other western countries and suggested that annulling the Tender Years Clause immediately would not be a good idea after all. He recommended testing the idea in an experimental fashion before reaching a decision to strike the clause permanently from the law books.

Vinter and the other speakers had trouble finishing their speeches, however, because men's activists who sat in the front rows kept on interrupting them. The activists said, among other things, that the Shnitt Committee was illegitimate because it included feminist representatives, including a representative from Israel's largest women's union, Na'amat – yet has no representatives from the men's groups.

Senior Social Worker Niva Milner, who was also interrupted numerous times, said that the Welfare Ministry has changed its attitude on the subject of custody but explained that the change is mostly one of "discourse." The old discourse concerned parental rights, she said, and the new one involves parental responsibilities.

Prof. Yossi Gil, a member of a parents' group called "Horut Shava," said that the Tender Years Clause perpetuated the stereotypes of "mother as nanny and father as cash machine" and that both sexes should be interested in annulling it for the sake of equality. He noted that some people receive money in order to perpetuate the feud between men and women and singled out a feminist group that publicly supported a woman who sadistically murdered her husband.

Dr. Orly Binyamin of the Sociology and Gender Studies programs in Bar Ilan University caused a firestorm to erupt when she explained the reason for her opposition to striking the Tender Years Clause. "My opposition has nothing to do with my assessment regarding the skills of men as fathers or of women as mothers," she said. "The central point is that when the Tender Years Clause is annulled, women will lose their legal status as single mothers and therefore will not be eligible for [state] support."

The Tender Years Clause is based upon a principle spelled out by Maimonides, according to which children up to the age of six should be with their mothers in case of divorce. However, additional clauses from Maimonides which stipulate that the father has the right to raise his sons after they turn six are ignored by modern Israeli courts, and the Tender Years Clause has been extended and now applies to children of all ages.

Dr. Yoav Mazeh, who teaches Hebrew law at the Ono Academic College, addressed the subject of divorced parents who purposely fail to comply with court-ordered parenting arrangements – that is, who fail to hand over their children to the ex-spouse on the appointed days. He pointed out that when a father fails to hand over the children, the mother can turn to the court and police will break down the father's door if need be to take the children. However, when mothers fail to comply with parenting arrangements and the fathers – who are usually considered the non-custodial parents – ask the court to intervene, the courts refuse to do so.

Mazeh related several stories of such fathers that he has personal knowledge of, including one who has not seen his daughters for ten years because of the mother's non-compliance with court ordered parenting arrangements. "He missed his daughters' bat mitzvah," Mazeh said. In other cases, when fathers insisted that the court enforce

their parental rights, the judges responded by fining the fathers, or even making their parenting arrangements more limited than they had been.

The bottom line, said Mazeh, is that in Israel, divorced fathers who see their children regularly have this privilege because the mother is kind hearted – not because the court will help them in case she refuses to let them see their children.

Attorney Raz Misgav of the Divorced Father's Headquarters said that the Tender Years Clause intensifies conflict between divorced parents because it creates a situation in which mothers have a vested interest in creating conflict. Joint custody is ruled out in high-conflict situations, he explained, and the Tender Years Clause makes sure it is the mother who will be awarded primary physical custody of the children. The mothers know that they will then be eligible for child support payments, and the children become a sort of "profit-bearing asset," he explained.

Eitan Ivan, spokesman of family-values advocacy group The Familists, pointed out that parenting is "very basic, very primal, very natural and requires no explanation." He said that the very act of choosing one parent as a better parent than the other is an anomaly and advocated joint physical custody as the default arrangement in divorce cases. This, he said, would diminish combative divorces because neither parent would have a need to prove that he or she was better than the other parent.

The last speaker, attorney Yoella Har-Shefi, said that the men who interrupted the lectures were the ultimate proof of the "stupidity" of the present system which brands "the mother as nanny and father as ATM."

"These men are shouting from the blood of their hearts," she said. "They did not come here because they are indifferent to their children. This shout must be listened to and it must be attended to," she said. "When your child is torn from you, you cannot always respect the rules of politeness," she told the audience.

The meeting ended on an acrimonious note as fathers' activists continued to attack Prof. Shnitt for allegedly siding with women's groups because of political considerations. When Shnitt mentioned, in his summation, the need for restraining orders against men, one activist shouted to Shnitt that it was he and other "cowards in the academia" who should be served with restraining orders.

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