



The Equal Parent Presumption: Social Justice in the Legal Determination of Parenting after Divorce

Edward Kruk

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In custody battles over the children of separated parents, the prevailing standard of evaluating what is in the "best interests of the child" has been scrutinized because of the discretionary nature of what is "best" and because of the bias in favour of the child residing in one "primary residence." In response, a consensus is beginning to emerge that it is vitally important that children maintain meaningful relationships with both parents after divorce.

In The Equal Parenting Presumption, Edward Kruk proposes a child-focused approach based on a standard that considers the best interests of the child from the perspective of the child and a responsibility-to-needs orientation to social justice for children and families. Challenging previous research and received ideas, Kruk presents an evidence-based framework of equal parental responsibility as the most effective means of ensuring the protection of family relationships following divorce, and shielding children from ongoing parental conflict and family violence.

The existing system of determining parental rights and responsibilities is harming families. The Equal Parenting Presumption addresses a major barrier to the principle of gender equality in parenting after divorce, and proposes a viable alternative to sole custody in the form of a legal presumption of shared and equal parenting.

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