



Illustration: Kimberley Whitchurch, Dal Gazette

Lesbian couples fight for child custody

By ELIZABETH DONOVAN

Unlike most mothers Marge is reluctant to talk about her children.

She gets nervous when describing the custody battles she has had to go through to get custody of her three children.

Marge is a lesbian and knows all too well that secrecy is essential in a homophobic society.

"I have joint custody of my kids. Although I wanted full custody my ex-spouse threatened me by saying I better not pursue the full custody idea if I didn't want the lesbian issue to come out," said Marge.

Maria, another lesbian mother, is living with her lover and has custody of her daughter. She considers herself luckier than most.

"My husband decided not to go for custody at the time of the divorce," said Maria. "Originally, the grounds for divorce was homosexuality, but luckily my husband changed it before we went to court."

Maria remembers the judge's reluctance in giving her custody of her daughter.

"My husband's lawyer brought up my sexual orientation in court, but fortunately it was not admissible."

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Custody battles are never easy. If custody is not resolved at the time of divorce, parents can try to settle it out of court. Often, if parents decide to fight for the custody of their children, all sorts of nasty attacks are made toward each other.

"If both parents seem to have equal chance in getting custody,

homosexuality can be used against a parent," says Halifax lawyer Dawna Ring.

For many gay/lesbian parents, hiding their sexual orientation from lawyers, ex-spouse and judges may be the only way they can keep their children.

"Just breathing gay or lesbian in the courtroom an prejudice the courts," says Ken, a gay and lesbian counsellor.

"A lot of people end up hiding, many don't disclose they are gay even after the custody arrangement has been established. Many will hide it not only from their ex-spouse but from their children because they might tell daddy," says Ken. "A custody battle never really ends. It can reopen if the partner is vindictive enough."

Returning to the courts is what Marge and Maria fear the most. For this reason both women asked that their real names not be used. Marge and Maria are pseudonyms.

Homophobic reactions from

lawyers and social workers can also add to the discouragement of a lesbian/gay parent seeking child custody.

"I had to switch lawyers," says Maria. "She told me that under the circumstances she didn't think I would get custody of my child and that she felt uncomfortable about pursuing it. So I told her, 'If you're going to go in [the courtroom] homophobic I'm not going with you,'"

"There is still a lot of backward thinking going on in the courts. I've known women who have had other men testify they were their lovers in order to avoid being suspected lesbians," says Marge.

Ideally judges use the principle "What is the best interest of the child?" to determine which parent gets custody. However, this principle is subject to interpretation by the judge.

"It's up to the judges. They can scream unfit mother if they hear lesbian," says Marge.

"I would hope that our courts would not give custody to an incompetent parent because of the sexual orientation of the other spouse," says Ring. "In this area, judges tend to favor the 'tender years doctrine'—younger children should live with their mothers."

Ken says the reasons why homosexual parents are deemed unfit stems from two basic myths about homosexuality: child molestation and children will be gay if their parents are gay.

"When I told my mother that I was a lesbian she made a direct statement about child molesting. I was appalled," says Maria.

"What's most important is that children need to feel secure and that they are loved by both parents, regardless of their sexual preference," says Maria.

Marge agrees, saying, "A model relationship is a relationship that shows the positive side of loving and good communication, regardless of the people involved." □