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When Exploitation Of The Judicial System & Laws Put Vulnerable Members Of Society At Risk: State Judiciary Should Revoke The Grandparents Rights Laws

A grandparent's bond with a grandchild will be an immense pleasure and value for both grandparent and youth. However, an event like the death, divorce, or estrangement of a parent can tear apart family members and alter or damage relationships. Following these incidents, parents or guardians of the child may block any communication with grandparents, who may take legal action to retain interaction with the children they adore. This essay highlights the argument about the ramifications of grandparents' rights laws and why those laws should be revoked because victims of abuse may use estrangement to protect themselves, their spouses, or their children. Americans' liberties are trapped under the pressure of laws stuck in a tradition that goes against inborn rights, and the violation of these rights can lead to extreme consequences.

When defining estrangement, Bowen (1978,1982) originally conceived the concept as: "...resolving unresolved relational issues with family members by dramatically minimizing interaction or staying in close contact while retaining detachment from the emotion." Once estrangement occurs, it can last for years and sometimes even lifespans. Additionally, estrangement is a collective process,

particularly among relatives with a history of failed attempts at a positive relationship. While breaks can occur during a significant event like a wedding or holiday, it is typically because such times reveal unsolved problems.

“The conflict between grandparents and grandchildren can also be challenging to handle because of generational differences between grandparents and grandchildren.” (Kieley and Dolbin- Macnab, 2009). Grandchildren indicated tension with their grandparents because there are different beliefs and views and perspectives on issues such as personal relationships and roles in households. Grandchildren have identified grandparents as strict because they fear that their grandchild will behave like the grandchild 's parents.

As more estrangement cases became popular, state legislators in the 1970s started to pass laws for "grandparent visitation" to protect the rights of grandparents and other caregivers to visit. Currently, all fifty states have implemented some type of visitation law for grandparents. Such laws require grandparents to petition a tribunal to grant them the legal right to preserve their relationship with their children's offspring. However, State laws that enable grandparents (in-laws) to force relationships with their children & grandchildren infringe upon an individual's rights to choose whom they will have a relationship with and should be removed from the law books.

The states vary in how often parents have a right to monitor the upbringing of their children. Some states have treated grandparents' visits as merely a minor breach of a parent's right to raise an infant. Such states rely on the child's best interest to make choices on whether or not to encourage grandparents to visit, and family members in

these "permissive" states will also apply for visitation rights. Grandparents will only request visits in situations where the relationship is steady. For example, no divorce or death has occurred in the household. Under these cases, even though the parents disagree, courts will give the grandparents visitation rights.

Other states protect the right of a parent to decide what is best for the child. They implement "restrictive" visitation statutes, which means that only grandparents, not including caregivers, have visitation rights. Visitation rights can be pursued if the child's parents are getting a divorce, one or both parents have died, or the child has been born out of the marriage. The parents of single households in these states get the last say on whether or not relatives are permitted to come.

One way to stop a fight in the legal court is to try to mediate effectively. Throughout the mediation, the disputing parties employ an impartial third party's expertise to help them work out a legally binding settlement in which everyone involved will stay. The groups in conflict should monitor the proceedings and have the ability to discuss their views and feelings. On the other hand, in a court of law, the judge must eventually render a decision based on rules that might appear unjust to both parties.

The states should abolish the permissive laws concerning visitation rights. The court should not have the final verdict deciding who gets to visit a child that does not belong to them. All courts in the United States should adopt the restrictive visitation laws that give the child's parents the authority, assuming they have a stable relationship. Parents should have the last say because most parents know what is best for their children, and even if they do not, they should have the right to figure it out themselves.

For example, during their marriage, Tommie Granville and Brad Troxel conceived two daughters. Following Tommie and Brad's separation in 1991, Brad went to stay with his parents, Jenifer and Gary Troxel and took his daughters regularly for weekend visits to their parents' house. Brad committed suicide in May 1993. While the Troxel's at first wished to see their granddaughters frequently, Tommie told Troxel's in October 1993 that she had agreed to restrict her contact with her daughters to one visit per month. In December 1993, the Troxel's complained to the court to increase the visitation. The state of Washington has a "permissive" state law, one that requires a judge to order visits if it is in the child's best interest, even over the objections of a parent (TROXEL V. GRANVILLE, 2000).

However, in 1995, an agreement was reached by the trial court in Washington State, permitting more visits than Tommie allowed but fewer than the Troxel family had demanded. Tommie sued, and the case went to the Washington Supreme Court, which found that the state law infringed parents' inherent right to raise their children unconstitutionally (TROXEL V. GRANVILLE, 2000). The majority considered the Washington state law defective as implemented because the court did not assume that parents would behave in the best interests of their child. The majority was adamant that the best interests principle protects parental rights inadequately. Moreover, the majority did not agree on the correct standard to direct the courts and legislators.

Susan Adcox (2019) explains that parents can refuse toxic grandparents from contacting their grandchildren. People who are sexual predators, heavy drinkers, or drug addicts can rarely tidy up their actions simply because they have become

grandparents. Parents are thus reasonable for not desiring to have their children around such complex and challenging grandparents. It can also be damaging and dangerous if toxic grandparents engage in a court battle or other means to visit their grandchildren.

Furthermore, parents also have justification for refusing interaction with grandparents who violate the health rules of the parents. For starters, grandparents who move grandchildren without the appropriate auto safety regulations should not drive grandchildren anywhere, have a history of injuries, or do not drive safely. The same applies to any other health law set down by the mother, whether the grandparents approve. If the violation is not too severe, parents can start letting grandparents see their grandchildren, but only under regulated (Adox, 2019).

For example, in the tragic case of the Powell family, where Susan Powell (parent) was affected by the actions of Steve Powell (in-law) is an example of the consequences of these rights (Egan, 2019). This case shows the dangers of having a persistently toxic family member that one cannot escape and the urgency for states to abolish permissive grandparent's right laws. In the case, Susan mysteriously disappears, and her children are murdered at their father's hands, who also had enabled his father's actions. If Susan lived in a state with grandparent rights laws, Steve could have abused such a system via a lawsuit to gain access to her under the guise of wanting a relationship with his grandsons (Egan, 2019).

Visitation laws will protect the parent's right to monitor the child's upbringing, according to Troxel's case (TROXEL V. GRANVILLE, 2000). However, what language judiciary should use to fulfill that constitutional mandate is uncertain. States' laws

reacted in several ways to this uncertainty. For several states, the legislature changed the existing law of visitation to include specific language that protects parental rights. In some, only the procedural burden has changed by the legislature. Despite different ways, these strategies had the same objective: to realize that the principle of best interests alone offers inadequate protection for parental rights and, therefore, to give more weight to parental rights (Cowan, 2007). The first step to grasping how the judiciary views the "best interests" principle is to examine how the judiciary applies the principle to different sets of evidence. The implementation of that principle by the Pennsylvania Supreme Court in *Hiller v. Fausey* illustrates the principle's meaning.

In the *Hiller* case, during the two years leading up to his mother's death, a boy grew very close to his maternal grandmother. The grandmother handled much of the basic child-care needs during these two years. However, after the mother's death, the father stopped the visitation of the grandmother with the child only three times in one year. The grandmother applied for expanded visitation, and it was granted by the trial court (*Hiller V Fausey*, 2006).

Once the Supreme Court reviewed the trial court's decision, it recognized that *Troxel's* provision of particular weight was extended to the father's action by the trial court. The trial court also extended the inference that the father was behaving in the child's best interests as a fit parent. First, the trial court looked at the degree to which the father would permit visitation if the court did not issue the visitation order and determined it was limited. Most notably, the trial court asked if visiting would be in the child's best interests.

The reasons given by the court for deciding that this was in the child's best interests are paramount. The court noted that the grandmother is warm and loving, and has developed a long-standing, very close relationship with the child. The child enjoyed spending time with her and visiting with many of her maternal relatives during the family gatherings during the court-ordered visitation (Hiller V Faucey, 2006).

Furthermore, the child was having differences with her father's family. Therefore, his mother's family's side is emotionally very advantageous for the child" (Hiller V Faucey, 2006). In the Hiller case, the court considered the grandma to be honest because she vowed not to despise the father in front of the child and therefore ruled that visitation does not harm the bond between parent and child. The Hiller case indicates that courts enforce the "best interests plus" principle by tipping the scale in favor of the parents by ensuring that visiting should not conflict with the partnership between parent and child. However, by demonstrating that visitation would be "beneficial" or useful to the child, courts allow grandparents to turn the scale back.

This essay analyzes the dangers forced visitation rights have on family members, especially grandparents and grandchildren. However, some people may argue that not all grandparents (in-laws) are abusive or act in ways that warrant to be cut off from their family members. They may just want to be involved and connect with people they love, and the laws that enable them to sue for rights may be their only recourse.

However, these laws meant strengthening family ties, encouraging healthy cross-generational relationships, and promoting traditional family structures open the door for manipulation, abuse, and blackmail by malicious family members against

unsuspecting children. Legally forcing a relationship is more likely to strain ties than to repair them. Provided the child has a suitable guardian, then that guardian has the right to disassociate with anyone according to their discernment (freedom of association), whether for their own sake or the child's regardless of whether the other party deserves it.

Individual freedom of association should not be infringed upon, and laws enabling extended family members to file lawsuits against that should be revoked. The traditional family structure in which these laws are based fails because they overlook individual liberty in favor of that tradition. There is already custody, parent rights & emancipation laws in place for navigating the complexities of the immediate family structure related to individual liberties; any further laws delegating mandatory relationships are excessive and reductive to personal choice.

To conclude, grandparent rules of visiting employing the "best interests plus" principle are not explicitly designed to advance a child's better interests. Such statutes can hinder the best interests of a child. Typically speaking, spending time with grandparents is a good thing, and the experience will significantly help youngsters. These aspects considered helpful when ordered against the request from a parent. The objection by the family members leads to harmful consequences. However, supervision over a child is not a witness to the challenge of their parent's authority. If grandparents pursue their grandchildren against their parents' wishes, then the children may begin to lack trust in their parent's ability to be good parents, which is detrimental to the parent-child relationship.

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