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NEWS > LAW JOURNAL

Who chooses your child's religion in a divorce?

Charles B. Wagner
Special to the Tribune

TORONTO – Custody and access are often the most divisive issues in a divorce. This is especially the case when couples have fundamentally different religious beliefs and want to ensure that their children are raised in a particular faith. This topic will be addressed by Dan L. Goldberg in his article *The Impact of Religion on Custody and Access Disputes in Canada*, which will be published in the *B'nai Brith Law Journal*, Vol. 1, No. 2.

The *B'nai Brith Law Journal* was launched in February 2009. Its mandate is to support its professional and student membership on important developments in Canadian and International Law. Each journal has a special focus on issues of interest to those who service the Jewish community in Canada. No other legal publication in Canada has first-tier professionals speak to issues of interest specific to the Jewish community and the professionals who service that constituency. For that reason, the *B'nai Brith*

Canada Lawyers Division is publishing this periodical to address the needs of the professionals servicing this community. To that end, each volume will contain at least one article specifically related to Jewish issues. The coming publication deals with family law issues.

In his article, Goldberg addresses how courts deal with parents fighting for control of their child's religious practice and education.

Goldberg is senior counsel at the Office of the Children's Lawyer, which is an independent law office within the Ministry of the Attorney General of Ontario. He delivers lectures and articles for the continuing legal education programs at the Ontario Bar Association, Law Society of Upper Canada and Association of Law Officers of the Crown. He also guest lectures at many law schools in Ontario and Quebec. Goldberg's paper will be of great assistance to lawyers dealing with custody issues where religion is an issue.

Some of the issues addressed in his paper include:

1. In a divorce, who decides what religious path should be taken by the children?

2. What restrictions, if any, are placed on the non-custodial parent's practise of religion?

3. What are the tests applied by the courts to decide about the religious upbringing of children?

4. How do the courts deal with competing interests of freedom of religion and the best interests of the child?

It is beyond the scope of this article to adequately summarize Goldberg's detailed and scholarly review of the issues. However, in general terms, he explains that "the best interests of the child test" is the foundation of contemporary family law in resolving custody and access disputes. When dealing with parents' conflicting religious agendas for their children, the courts attempt to apply that test. How they do so is addressed in his article.

The articles that appear in the *B'nai Brith Law Journal* in general are intended for those involved in the practice of law. Nonetheless, those who wish to obtain a copy of the publication, should contact Dan Rabkin, *B'nai Brith Canada* at drabkin@bnaibrith.ca.

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