

An Excerpt From Phyllis Chesler's Book:

MOTHERS ON TRIAL

Phyllis Chesler

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Editor's note: Fox News Opinion presents the introduction and an excerpt from the completely revised second edition of Phyllis Chesler's book "Mothers on Trial":

This is a book that cried out to be written. I first heard that cry in the mid-1970s and, after years of research, published the first edition of "Mothers on Trial: The Battle for Children and Custody" in 1986. At the time, the book created a firestorm and was widely, if controversially, received.

In the last twenty-five years, there have been some improvements, but matters have decidedly worsened. The book you are holding has been revised and updated and brought into the twenty-first century.

Myths about custody still abound. Most people still believe that the courts favor mothers over fathers—who are discriminated against because they are men—and that this is how it's always been.

This is not true.

For more than five thousand years, men—fathers—were legally *entitled* to sole custody of their children. Women—mothers—were *obliged* to bear, rear, and economically support their children. No mother was ever legally entitled to custody of her own child.

During the nineteenth century, pro-child crusaders gradually convinced the state that young children required maternal "tenderness"—but only if their mothers were white, married, Christian, and moral. The children of American slaves, of Native American Indians, of immigrant, impoverished, sick, or "immoral" parents—all were untenderly appropriated by slave owners and by the state. They were clapped into orphanages, workhouses, and reformatories or farmed out into apprenticeships for "their own good."

By the turn of the century, a custodially challenged American mother enjoyed an equal right to custody in only nine states and the District of Columbia—and only if a state judge found her morally and economically worthy of motherhood. Until the 1920s, no American mother was entitled to any child support. Since then, few have received any.

The maternal presumption was never interpreted as a maternal right. The maternal presumption has always been viewed as secondary to the child's "best interests"—as determined by a judge. This "best interest" was always seen as synonymous with "paternal rights."

The contemporary fathers' rights (or fathers' supremacist) movement, which has been wildly successful in instituting joint custody and false concepts such as "parental alienation syndrome," **is also a throwback to the darkest days of patriarchy.** It is not the modern, feminist, progressive movement it claims to be. Individual men may indeed be good fathers, and, like good mothers, they too may encounter discrimination and injustice in the court system. What I am talking about here is an organized political, educational, and legal movement against motherhood that has turned the clock back.

This book is about what it means to be a "good enough" mother and about the trials such mothers endure when they are custodially challenged. This book is not about happy marriages or happy divorces—it is about marriages and divorces that erupt into wild and bitter custody battles.

By now, many books have been written about the role of caring and responsible fathers, about male longings for a child, and about a child's need for fathering. This book clarifies the difference between how a "good enough" mother mothers and a "good enough" father fathers. It clarifies the difference between male custodial rights and female custodial obligations.

Since *Mothers on Trial* was first published in 1986, thousands of mothers have called or written. "I'm in your book," they say. "It's as if you knew my story personally." "You showed me that it's not just happening to me, that it's not my fault." And, "Can you help me save my children?"

In the first edition of *Mothers on Trial*, I challenged the myth that fit mothers always win custody—indeed, I found that **when fathers fight, they win custody 70 percent of the time, whether or not they have been absent or violent.**

Since then, other studies, including ten state supreme court reports on gender bias in the courts, have appeared that support most of what I say. (The **Massachusetts report actually confirms my statistic of 70 percent.**)

Although the majority of custodial parents are usually mothers, this doesn't mean that mothers have won their children in a battle. Rather, mothers often retain custody when fathers choose not to fight for it. Those fathers who fight tend to win custody, not because mothers are unfit or because fathers have been the primary caretakers of their children but because mothers are women and are held to a much higher standard of parenting.

Many judges also assume that the father who fights for custody is rare and therefore should be rewarded for loving his children, or they assume that something is wrong with the mother. What may be wrong with the mother is that she and her children are being systemically impoverished, psychologically and legally harassed, and physically battered by the very father who is fighting for custody.

Today more and more mothers, as well as the leadership of the shelter movement for battered women, have realized that **battered women risk losing custody if they seek child support or attempt to limit visitation.** Incredibly, mothers also risk losing custody **if they accuse fathers or physically or sexually abusing them or their children—even or especially if these allegations are supported by experts.**

An ideal father is expected to legally acknowledge and economically support his children. Fathers who do anything more for their children are often seen as "better" than mothers, who are, after all, supposed to do everything.

The ideal of fatherhood is sacred. As such, it protects each father from the consequences of his actions. The ideal of motherhood is sacred, too. It exposes all mothers as imperfect. No human mother can embody the maternal ideal perfectly enough.