



Re : Enquiry - The incidence of international child abduction to and from Australia

including:

- (a) the costs, terms and conditions of legal and departmental assistance for parents whose child has been abducted overseas;
- (b) the effectiveness of the Hague Convention in returning children who were wrongly removed or retained, to their country of habitual residence;
- (c) the roles of various Commonwealth departments involved in returning children who were wrongly removed or retained, to their country of habitual residence;
- (d) policies, practices and strategies that could be introduced to streamline the return of abducted children; and
- (e) any other related matters.

Sole Parents' Union appreciates the opportunity to provide a submission on this important issue. To have a child abducted is every parent's nightmare. We acknowledge that there are many reasons children can be abducted, but this submission will concentrate only on cases where children are abducted by one parent because of family law issues.

A number of recent high-profile cases have highlighted this issue, and what is often the reason children are abducted. That is, because one or the other parent is concerned for the child's safety, and they feel their child is not being protected by the family court.

Sole Parents' Union hears from parents (both mothers and fathers) who are concerned that the Family Court has ordered that a child be handed over to a

parent who is abusive. They are often highly distraught at their inability to protect their child and concerned that if they withhold access they may be jailed and/or the abusive parent will be awarded full-time custody.

Despite wide-spread community concerns that mothers raise allegations of child abuse in order to gain an advantage in the Family Court, this rarely happens. Even where the allegations are unsubstantiated, there is usually a well-founded basis for the concern.

Sole Parents' Union does not condone child abduction, however we do understand the desperation behind the act where a parent is concerned for a child's safety.

While it is important to improve the process of returning children to Australia, or other country of origin, it is equally, if not more, important to try to fix the problem at the source – the Family Law Act (the Act).

Recent changes to the Act to focus on equal or substantial time, have meant that more children are being forced to spend time with abusive parents. Three separate reviews published in early 2010, all of which found children are being put at greater danger because of the amendments, have so far triggered further enquiry, but no change to the Act.

Sole Parents' Union is appalled that this situation has been allowed to continue for as long as it has.

As stated in our submission on the *Family Law Legislation Amendment (Family Violence and other measures) Bill 2011*

Regrettably, the Family Law Act does not ensure that children's best interests are paramount. Repeated evaluations have shown that women and children are put at risk by ongoing reforms which shift emphasis from children's best interests towards parental rights (see Reg Graycar, Helen Rhoades & Margaret Harrison, *The Family Law Reform Act: The First Three Years*, Final Report, The University of Sydney and the Family Court of Australia, (December 2000); Professor Richard Chisholm *Family Courts Violence Review* (2009); Australian Institute of Family Studies *Evaluation of the 2006 family law reforms* (2009); Australian and NSW Law Reform Commissions Report 114 *Family Violence – A National Legal Response* (2010); Dr Lesley Laing, Faculty of Education and Social Work, University of Sydney *No way to live: Women's experiences of negotiating the family law system in the context of domestic violence* (2010), inter alia).

We are concerned that constant amendments to the Act, often in response to political pressure, have changed the focus from children's best interests to parental rights, and made the Act difficult to understand and administer.

Children are the future of our country, and should be protected by those entrusted with their care.

Kathleen Swinbourne

Chair

Sole Parents' Union rA9X66