

From: [REDACTED]
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Subject: Child Custody Arrangements Inquiry

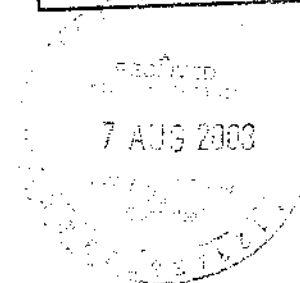
House of Representatives Standing Committee
 on Family and Community Affairs

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Secretary:

Committee Secretary
 Standing Committee on Family and Community Affairs
 Child Custody Arrangements Inquiry
 Department of the House of Representatives
 Parliament House
 Canberra ACT 2600



**Submission to the Parliamentary Inquiry:
 Child custody arrangements in the event of family separation**

By way of some context, I have a seven-year-old son as a result on my first marriage. I am a professional and have a stable family life with my current partner. We moved to northern NSW in January 2003 and my ex wife & son continue to live in [REDACTED]

The philosophical premise of the custody system is espoused to be child centered. However, creating the custodial/non-custodial division in families undermines this philosophy. Once the family court formalizes this 'division', a chain of events is inevitably set in motion. The family court effectively formalises a power imbalance in the family which impacts negatively on the usually already fragile dynamic between estranged family members. At the time when children may be at their most vulnerable, when their family is de-stabilising, a decision to give one parent greater power only exacerbates the tension they inevitably experience. On a more subtle level such a decision also implicitly validates one parent over the other, in the eyes of the child, each of the parents, and the wider community.

It is a fact of life that systems, which are made up of individuals, operate in the context of implicit cultural stereotypes. Family court decisions regarding custody are informed by these cultural stereotypes in the following ways.

A greater number of mothers are given custodial guardianship, and fathers are disadvantaged, based upon the following stereotypes

1. Mothers are the natural carers of children, not fathers. If this is true then no father should be given custodial guardianship. The fact that fathers are given custodial guardianship invalidates the premise.
2. Mothers who have stayed home to care for a child in the past are the natural choice as the custodial guardian. This is based on the premise that change is bad for children. If change is bad for children then even the idea of joint parenting is irreconcilable.
3. There is an assumption that in times of conflict men will become aggressive and assert power

over women and intimidate them.

4. Just because a family has operated in this way doesn't mean it can't operate equally well
5. In many cases the father works because he has a greater earning capacity, and so the family maximize their income by choosing the mother as the unpaid worker in the family.

To relate these broad comments to my own situation, whilst we lived in Melbourne my ex-wife scrupulously kept access to the bare minimum the law prescribed (alternate weekends and a one week holiday with us a year). Contact with my son was not informed by any respect for my role as a parent, but by her practical requirements for child minding. As my son got older, an additional evening's access during the alternate week was frequently denied. As primary carer, she ruthlessly exercised her legally unfettered ability to control access to my son. A subtle impact of this control is the alienation of my son's affections from me (Dad can't care much about you if he isn't here...) Nothing could be further from the truth and the manipulation of his fragile emotions in this respect upsets me greatly. However, I have learnt that it is in my best interests to be civil and compliant or she frustrates access all together. My ex-wife is only willing to agree to allow me now to see my son for a cumulative total of three weeks in [REDACTED]. The rationale being the travel required and the fit with her personal plans. Underlying these, is a clearly stated view that my role as co-parent is not a valued one.

Child Support is not in principle a contentious issue for me. I pay the amount of child support determined by the CSA regularly and without dissent. The current child support arrangements are such that I pay Child Support as if my ex-wife was fully supporting our son all of the time. I also pay for his support for the time he is with us. This is as well as the hefty payments each month to my ex-wife, which compromise the living standards of my current family. My ex-wife would regularly drop my son off to us in hand-me-down clothes even though I provide new clothes for him, in addition to financial support through the CSA. I would feel obliged to go out and purchase more new clothes for him. [REDACTED] this year she is taking him with her on her holiday overseas for 6 weeks. This is the third trip of this duration in 4 years. I would hope that a more equitable share of the care would also be reflected in more equitable Child Support arrangements clearly tied to the interests of the child, not the interests of the custodial parent.

As I have painfully found to my cost (literally as well as figuratively) the law is not set up to support my wish to remain active in my son's upbringing. It tacitly and actively is constructed to limit my role in decision-making. It is clear to me that in reality I appear to have no legislatively protected rights that enforce the spirit of joint parenting that is supposed to inform the Family Court Act. I may, of course, choose to pursue mediation and or legal means to enforce access (an option I am now actively considering as conciliation appears to achieve little or nothing). However the burden of any proof lies with me. The primary carer status that my ex-wife has (not my wish) places her in an unassailable position. I have to bear the cost of any legal action to achieve some balanced access for my son in a situation where the divorce settlement and child support arrangements have depleted my personal resources. It has been made clear to me by legal representatives that the chances of success to achieve more access are minimal as the Court currently interprets the case law. I have never felt quite so violated and powerless in my life. I am not asking for control, I am asking for an equal share in the opportunity to see my son grow up.

I urge legislative changes that will formalise a child-centered philosophy in the context of split families that enshrines the important role of both mother and father and also guarantees equal access. Privately, my own experience as a non-custodial parent has been demoralizing, disempowering and frustrating. However, I feel my ex-wife, and especially my son, are equally victims of a system that initiates and perpetuates competition and manipulation between members of split families.