

Submission No. 967

THE EVENT OF FAMILY 16-8-03

Secretary

**SUBMISSION TO THE
ENQUIRY INTO JOINT CUSTODY ARRANGEMENTS IN THE EVENT OF FAMILY
SEPARATION**

Please consider the circumstances of women of women like me who live a violent domestic situation but are unable to take their children with them.

A year after my departure, my four children (aged 9, 11, 16 and 16) are still residing with their abusive father. They are allowed by their father to spend every second weekend with me and half of the school holidays. He aggressively resists any attempts by my children to spend more time with me and uses my pleas for more time with them as an opportunity to remind me that this is my punishment for leaving. I have applied to the Family Court for orders that the children reside with me but my case is unlikely to be heard by until early 2004. Attempts at mediation have been laughingly unsuccessful – this man will not concede any control. While my Apprehended Violence Order includes the children, I was discouraged from applying to have him forced out of the house. The children have been notified to the relevant authorities as at-risk but I am not kept informed of any action taken or planned in this regard.

People ask me why I didn't take my children with me when I left. The reasons are emotionally complex:

- Their home is their home. In an unpredictably conflict-laden family, their bedroom and other parts of the house can, ironically, symbolise safety and security. It's difficult enough for a frightened abused mother to decide to end the relationship without causing – in her mind - more suffering to the children by uprooting them. Especially when she is likely to believe she has been responsible for his violence.
- The children don't understand that their father's behaviour is violent and unacceptable. They don't believe he will really physically hurt them badly and they cannot understand the damage his emotional abuse is causing them. It's all they have ever known. They know he loves them. And their father has always told them that his violence is their mother's fault.
- The children believe their father needs them more than their more apparently resilient mother. After all, he's the one that's been deserted.

I'm sure my circumstances aren't that uncommon. The proposed change, if it applied from the time of separation until orders are made or other agreement reached, would be a dramatic improvement for me and other women like me. At present, the contact we can have with our children is totally dependent on the goodwill or otherwise of the children's father. Violent and abusive fathers know how powerful they are when they can control the contact – frequency, time, location, conditions - their children have with their mother.

Presumption of shared custody should apply at the time of separation & until the court makes a decision in "child's best interest".

A comment about the existing child support formula and whether this works fairly. I pay child support through the Child Support Agency. I left my marriage with large debts incurred jointly but legally held in my name (he didn't have sufficient income to obtain loans and credit). I was unable to take any household items (he wouldn't permit this) and have had to set up house from scratch. The amount of child support I was assessed as liable to pay was unaffordable for me. However, I found the appeal processes whereby I have been able to apply to change my child support assessment because of special circumstances (reason 7 – necessary expenses for self-support that significantly reduce my capacity to support my children) and the provisions for objecting to decisions of the CSA have been fair. Both parties have opportunity to make their case and the interests of the children are adequately represented.

[REDACTED]

8 August 2003