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Hon John Howard
Prime Minister of Australia
Parliament House
Canberra 2600

House of Representatives Standing Committee
on Family and Community Affairs

Submission No: 417

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Secretary:

Dear Mr Howard,

I am writing in response to the enquiry into child custody arrangements and have enclosed a cutting from the "West Australian" outlining the reported reasons.

I would urge the retention of the current system with the best interests of the children being the main criteria. Although this system has its faults I believe a "default" joint custody starting point would take away some of the courts discretion and hand a disproportionate amount of power to abusive men in the negotiation process.

The current system has a way of naturally sorting out issues as best they can in what I am sure we would agree is a difficult environment to negotiate. What I mean by this is that where the mother and father split for whatever reason but are still being civil to each other then they will usually arrange for considerable and reasonable contact with the children for both parties. However where there is considerable animosity this will not usually be the case.

I understand that animosity can arise for various reasons, many of which are not related to spousal abuse but perhaps to either real or perceived failings of one or both partners. These cases are the ones, which obviously need direction from the Family Court. The cases, which concern me most, are the ones where there is abuse in the home. Most of this abuse is directed at women and children by the male partner and these victims of abuse are the ones I feel we as a society owe the greatest duty of care towards.

I feel if the default system becomes the norm then abusive males would enter into the negotiation process in an enhanced position of power. They would also waste no time informing their victims that it would be pointless to leave them as he would get shared custody and thus it will be impossible for the woman to get away and start a new life free of fear and abuse. This would inject a sense of hopelessness into the already sad lives of many abused women and children.

I write with some experience of these matters both in my private life and as a JP.

I would also like to touch on the matter of child support in relation to the above. It is reported in the

enclosed cutting that "child support obligations were being strongly enforced but Family Court custody orders were not." From the cases that I am aware of I have formed the opinion that complying with child support obligations in Australia is strictly optional. The CSA does not have the necessary means or tools available to it to enforce the obligations of recalcitrant non payers and these people are running rings around the system whilst still having contact with their children.

I understand this is a complex issue and I feel that examples are necessary, as such I will briefly outline two. In my own case I married three years ago and my wife brought two wonderful girls to our marriage from her previous abusive marriage. I am happy and proud to support our daughters on an equal basis as the son we have been blessed with. However I feel it is the responsibility of the girls biological father to contribute to their wellbeing. Last year the CSA managed to extract \$25.00 from him yet we are forced by the Family Court to travel the 300 km to Perth (costing us many hundreds of dollars) to deliver them for contact every six weeks, (He travels every other three weeks).He is \$15,000.00 in arrears and works in the building industry and also on wages at times but seems to be always several steps ahead of the CSA.

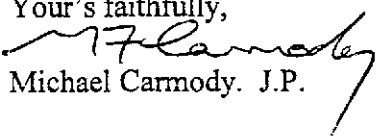
In another case that I am aware of the father is also many thousands in arrears and yet works on wages as a nurse. It has been the case that when his wage was accessed by the CSA, he asked them to stop and they did!

I believe that if there is to be any changes to the system then contact should be linked to willingness to pay child support. Rights should come along with responsibilities.

I believe the CSA also needs to be provided with the power to order financial institutions to release details of all accounts held by people they are trying to enforce payment from.

I hope your committee will travel to Perth as I would appreciate the opportunity to appear before it.

Your's faithfully,


Michael Carmody. J.P.