

From: FiL [FiL@iEEE.org]
Sent: Monday, 18 August 2003 2:14 PM
To: Committee, FCA (REPS)
Subject: Submission for the Joint Custody Inquiry.

Submission No: 1568
Date Received: 18-8-03
Secretary:



Pathways 1.doc
(422 KB)



Pathways 2FR.doc
(656 B)

Dear Margaret,

I am sending you my submission for the Parliamentary Inquiry into Joint Custody in the event of separation of the parents. I apologise for this late sending in of these documents.

I am inclosing two documents:

1. The comments I have on this matter.

"Pathways 1.Doc"

2. The copy of the family report that was made for the child custody case in which I was involved in. The report also contains my comments and opinion of the statements made by the Court Counsellor. Please keep This document confidential-at this stage.

"Pathways 2FR.doc"

My home address is as follows:

Philip Manuel
Unit 3, 8 Hope Street
Glen Iris, Victoria 3146

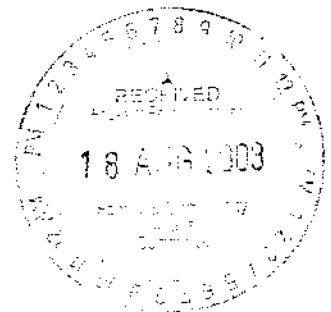
Email Address: FiL@iEEE.org

Please keep me informed of the progress of this inquiry and include me in any hearing that you be conducting in Melbourne.

Thanks and Best regards.

Phil

PS.
Please acknowledge receipt as soon as possible. Thanks.



Parliamentary Inquiry into Joint Custody of Children after parental separation.

1. **Cover letter**

1.1. **To:**

Committee Secretary
Standing Committee on Family and Community Affairs
House of Representatives
Parliament House
CANBERRA ACT 2600
AUSTRALIA

1.2. **From:**

Philip L. Manuel
Unit 3, 8 Hope Street
Glen Iris, Victoria 3146
eMail address : FiL@iEEE.org



1.3. **Dear Sir/Madame**

This is my submission for the Parliamentary inquiry into Joint custody in the event of a family breakdown.

I have made every effort to keep include all my concerns as this is a very important issue that I am facing on a day-to-day basis. I love my children and I am capable of taking care of them. The mother has made it very difficult for me to be involved in the children's lives simply because she has chosen to take that attitude.

The information that I have included here is what I have felt that I must convey to you since this is faced by many men due to a divorced family situation. I believe I am speaking on behalf of many thousands of fathers who may not have the capacity to convey their concerns to you. Please try and pick up whatever you can from this submission so as to build a better Australia by keeping the family healthy whether it is broken or intact. The children have a very important connection with their father and so this must be dealt with the greatest priority.

The paragraph headings give some indication of what is covered in the text. I have also included the report made by the Court Counselor on the family together with my comments that expose the bias and the distortion in these reports. The family report deals with issues that concern the ongoing relationship that my children are entitled to have with their father. This was clearly blocked based on what the court system thinks is the best interest of the children. I believe they have made a grave mistake and should be

changed such that the children can enjoy a wholesome relationship with their father and not be dependant on what their mother feels about their Dad.

Thank you very much for working to get the best outcome for all members of the family. Your extra effort in spending time to read through the concerns that I have put forward in this submission will be greatly appreciated. At times the concerns are repeated under different topics. It only is to say that it is very important to me and repeating it only adds emphasis to the concern.

I have to send this submission to you so that you can have it before you when you make the final recommendations to Parliament. I could condense it but that will take time from my end and there will be further delay in my sending it to you in time for any hearing that you may need to arrange regarding this submission. I would be very pleased to be included in any hearing that you have planned for the report. However I will try and condense it to the main points after I have sent it across it to you. I can send it to you later.

Thanks and best regards

Philip L. Manuel

Unit 3, 8 Hope Street

Glen Iris, Victoria 3146

eMail address : FiL@IEEE.org

Date : 18th August 2003

1.4. **The main point of the submission**

The current family law has erred greatly under the pretense that they are acting in the best interest. The fact that they are driving a wedge between the children and one of the parents, usually the father, itself is a tyrannical act. The idea should be to equally strengthen the bonds between the children and both parents and order the conflicting parent to cooperate in that objective.

The court also appoints a counselor to produce a family report to assist them in this tyrannical act. where the objective is to fault one parent against the other and to tear one parent away from the children. This they call being in the best interest of the children.

Once this tyrannical judgment has been passed, the parent who is given the sole custody of the children has the liberty and the license from the court to brainwash the children to her interpretation of the events that led to the marriage breakup and belittle the father to the children. This happens repeatedly over and over again. The other parent is then to work from this difficult position forced on him to maintain a solid and growing relationship between the children and him. The children in their infancy can be affected adversely by this act of the family court. The unforgiving attitude and

resentment of the custodial parent carried out in this way is out of the scope of the family court. So the court is the instrument of dishing out what is NOT in the best interest of the children.

The children should instead be given the right to veto the divorce of the parents. And order the parents to get their act together for their benefit. Now that would be in the best interest of the children because no child wants their family to breakup. leave alone seeing conflict between their parents.

Can you imagine it, at one time the parents are having sex and making love and having happy times with each other and then at another time they are in direct conflict for their own selfish demands under the guise of having the best interest of the children. Some sort of an Oxymoron and a clear evidence of resentment and an unforgiving nature.

The children refrain from talking about matter relating to the family situation because it hurts them and bringing back memories of the instances of conflict. Each time an issue needs to be discussed they immediately say "oh, lets not talk about that." In this way they are hiding their emotions and pain that resulted from a broken family. The child will live like that for the rest of her life. The courts are responsible for this crime being committed on the children.

The breakup smashes the best interest of the children. The children depend on the intact family to grow balanced in emotions and deal with conflicts that appear in a relationship. A joint custody after the break up is the next best thing for the children.

No-Fault Divorce must be succeeded by No-Fault Parenting

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2. Outline of my personal situation

2.1. Background

The mother married me because she wanted to come to Australia. Marriage was a convenient way for her to come to Australia as she had a doctor's qualifications. Immediately after that she was granted permanent residence, and I sponsored her sister's family to Australia. They arrived here in 1 year after the application was made. We then went to the USA for the wife's career as the Australian medical system would not accept her into the profession. I sold the house I had bought to possibly settle in the USA. After the wife's residency course was over she chose to return to Australia. Because Australia is a better place compared to the USA. She had been fully engrossed in her residency and her mood swings put a lot of strain on the relationship. I was trying to cope with the difficulties in the relationship while also trying to maintain the family.

When we arrived back to Australia. She got employment in Melbourne and found that she was settling very well with a few hurdles to getting registered in Australia to practice in her chosen field. She was still unhappy in the relationship and decides to make a situation by which she can put the blame on me on the break up while trying to get tactical advantage in the custody of the children.

She had wanted to sponsor her mother over to Australia. I had said that I do not want that to happen. She then was angry with me and tactfully took the opportunity to take an intervention order against me.

2.2. Intervention orders

I had a false allegation of Violence and abuse laid on me by the mother. A 12-month intervention order was set based on consent. The mother then asked me back after 3 months to help in the home as she had to prepare for an exam in the USA and so the situation was not working out in her favour she need help in taking care of the children.

2.3. Conflicts prior to court proceedings

We lived together for another year. I had made every effort to get counseling advice so as to deal with her attitude towards me. I even arranged a trip to Bali to set a relaxed atmosphere so that we could work through the issues hanging around and make the relationship to work for the benefit for all the members of the family. She was not cooperating with this effort and was bent of breaking up.

She took every opportunity and circumstance to influence the children to her side while I was concentrating on the hopes that the relationship would mend. She had no intention of mending the relationship. She became very uncooperative and created an argument on possibly every aspect of the relationship.

She then proceeded to put the matter in court for the custody of the children. She claimed that she should have the custody of the children in spite of the fact that I had taken equal share in their care while she was busy with the residency course in the USA as well as the night calls she had to deal with in her employment in Melbourne.

2.4. Court proceedings

The court called for a family report while the report was being made the children were placed in a joint care with equal time with her as well as myself.

Had I known accepted that this break up was definitely occurring and there was absolutely no possibility of her turning around, I would have made every effort to make sure that the children knew that I cared for them as a father and not fall into the "trap" of an argument with her that she could twist in her favour for the children to witness and be polarise to her side.

Had I been open to the fact that marriage commitments can last only if both the partners are in agreement with the same objective to provide a loving atmosphere for the children to group up in. I did not have the alternative frame of mind that when a break up was to occur I was to protect my relationship with the children and not be open to the tactical abuse I was receiving from their mother in that the children were being polarised by every thing that was happening in front of them. I was to gather all the evidence and keep my cool that required me to put to the family court and the family report.

2.5. Family report from Court Counselor

The counselors report was made available and has been enclosed in this response. The names have been changed to protect the anonymity of the members of the family.

I have included my response to the report and how I see it as being written even though I was capable to take care of the children and the children were polarised due to the circumstances and events that took place.

I had absolutely no idea what was actually required to be stated in the session of the family report. If I had a practice session on this area, I could have said my part to aid my case in the report. I had asked the lawyers the objectives of the family report and what to say but they gave me no clues of what I was to concentrate on. I was occupied on the breakdown of the relationship and how it would effect the development of the children in a broken home. That was my major concern. The report takes it as though I was only concerned about myself and not the children.

The mother put all allegations on me that I did not care for the kids and maintained her composure during the session. Obviously, because of research and preparation she had done and previous coaching in this area. This was her mindset and was pressing on with it. Also, she had coached

the children to jog their memories about some instances that she wanted them to say according to her interpretations of the events.

2.6. Interim orders

The interim orders were made as a standard ruling. This was how it was done previously and so there was no hope for me to have a joint custody of the children.

This came about simply because the mother chose to take an adversarial stand on this matter rather than say that even though the relationship between the parents was not what she wanted but the children could have had the benefit of equal time with their parents as they were not happy about being torn away from their father.

2.7. Final orders

I was told by the legal counsel that it will be against their advise that I should continue with pursuing the case as the outcome will not be in my favour.

It was with the hope of getting the judge to see the fact that I had been involved with the children's well being. I had made every effort to maintain a good relationship with the children in spite of the limited time that I had with them. Still the mother continued to have the conflicting attitude and the joint custody was thwarted.

I then took the stand of accepting the orders by consent so that the relationship can be turned out to be a workable one rather than have an adversarial stand on both sides. But I am fighting a one sided battle. Unless the court changes its attitude towards the role of the father there is absolutely no hope for the children to maintain a solid relationship with their father.

2.8. On going events

I am now trying to keep a solid relationship with the children knowing that there is no one else in the world that can take the place of their Dad. It is I who has to keep the light burning in spite of the barriers I have to face from their mother. She is being very rigid in the contact orders. She has this resentment that she harbors that the court can do absolutely nothing about. The errors of the court have to be ground into the lives of the children of not having a complete relationship with their own father.

2.9. The pathways report

This pathways report is a good thing happening. With Australia Leading the Way in balancing the role of the father with that of the mother.

This is very good. We have to come up with the very best divorce model in the whole wide world.

Removing the resentment from the conflict by starting with joint custody will go a long way.

N0-fault parenting should follow no-fault divorce.

Eliminating the fathers in the parenting role is a BIG mistake. The children NEED their father on an equal basis. In the intact family both parents are accessible to the children freely. In the post divorce situation the children and the father have to pay TOLL to get through to each other. The TOLL is the emotional expense for both of them.

The separation at least removes the visible conflict and the interference of the mother in the bonding of the child with the father.

2.10. **References I came across**

"The Unexpected Legacy of Divorce - a 25 year study" by Judith Wallerstein.

"Second Chances - Men, Women and children a Decade after Divorce" by Judith S. Wallerstein and Sandra Blakeslee

"Surviving the Breakup - The book that revolutionized America's Thinking about Children and Divorce." Judith S. Wallerstein and Joan B. Kelly

"The Good Marriage" - J. Wallerstein

"Boundaries" Cloud & Townsend

"Boundaries in Marriage" Cloud & Townsend

"Boundaries with Kids" Cloud & Townsend

"Seven Habits of Highly Effective People/Families" S. Covey

"Talk your way to an intimate marriage" - D. Harvey.

"Being Happy" By Andrew Matthews

"Follow your heart" By Andrew Matthews

3. **Family Issues**

3.1. **A terrorist act on the family**

It is the children's home that has been shattered. The two pillars that hold the family structure has been blown up. The adults can always make another home with another partner and find means of escaping the trauma. For the children these two parents constitute the pillars of their family, and to them the family is broken and will remain broken. This is a fact of modern day society where marriages are allowed to breakup based on the fantasy of one of the parents.

3.2. **Democracy in a family setting**

In a democracy there is the ruling party and an opposition that keeps the balance and the ruling party in check.

Similarly in a family there is Mum and Dad to keep balance in the family. When the family becomes one parent there is very high chances that the rule will be one of dictatorship where the will of the one parent is forced on the children. In this case their relationship with the other parent is determined

by the one parent's opinion and will and attitude towards the other parent. The present situation of sole custody permits this to occur without any checks and balances.

Breakups in families occur due to this desire of one parent getting full control on the custody of the children and calling the shots on the other parent with respect to the children. These families are conflict ridden with one parent trying to fight the dominance and resentment of the other parent. If the default is Joint custody, the conflicting parent has little reason for the breakup unless, of course, there are instance of major violence and abuse.

3.3. Break up of families

This conflict is brought upon them by their parents and particularly by one of the parents who has a selfish attitude for seeking what is best for themselves and at the expense of the other members of the family.

The end of the marriage and the relationship is between the parents and NOT between the parents and the children. the breakdown of relationship between the parents is to be kept separate and isolated from the children.

The children suffer at the hands of the leaving parent as well as from the decisions handed down by the court.

It is imperative that the children have a wholesome relationship with both parents equally.

There are a number of research materials available that suggest that when the children are allowed equal access to both parents they grow up in a balanced way compared to if that did not.

3.4. Families deal with conflict

It is not the whole family but only the two parents in conflict. The conflict between the parents does not mean conflict between the parent and the children. In the current system the children are being considered as being fused to the mother. Conflict with the mother is seen as being in conflict with the children.

3.5. Families

An intact family is the best for the child. However if such a family is not available for the child then there is no reason that the child cannot have equal access to both parents. God/Nature has determined two parents for the child not just one. Children's living mostly with one parent is not healthy for their growth and development.

The end of a marriage does not mean the end of the relationship between the child and his or her parent. Their relationship and contact with the parent is the primary importance and not the convenience of staying mostly with one parent compared to the other parent. In any case the children still have to move for the weekend contact. They still have to experience the breakup continuously through their growing years.

3.6. Primary carer

Primary Carer (?) This is OK for an intact family or arrangement in a healthy relationship. The care is agreed to be the parents. Just as a joint account, One person is allowed to manage the joint funds. Once the partnership breaks down the account gets divided into two equal halves.

In a childcare situation the best interest of the child has already been smashed by the parental breakup. The child has to have equal access to both parents. The present system does not recognise the equal importance of the parents and allows one parent to use the children as a tool to express their resentment on the other parent.

Both parents are primary carers. simultaneously. One parent cannot claim this for herself. Both parents are involved in the bringing up of the children.

Mother cannot play the role of Dad, neither can the Father play the role of Mum. These roles are unique to the individual parent. The children need both the parents to grow up with. The delegation of the caring is given to one parent and is valid only when the family remains whole and intact.

To balance the situation even more and to give the relationship some reason to grow deeper together, each parent must have enough education in this matter that in order to have joint custody as a default in case the relationship or marriage breaks down then there has to be a record of the equal sharing of the care of the children. This will be a very good outcome for the quality of the parenting relationship where each parent gets to take time off for a break at alternate intervals and so come back refreshed to enjoy a healthy growing relationship.

To cut off the father as not being the primary carer because of the division of labour until the children are 18 years old is a horrible act of the court especially when the best interest of the children is in question.

3.7. Value of family relationships

The child has an equal bonding with their father not just the mother.

Any one having a lack of parenting skills can be give a crash course and grandparents and friends help to do that.

There should be no advantage gained by any parent harbouring resentment and an unforgiving attitude. This will automatically reduce the damage. There will then be no fear of one parent of loosing an opportunity to build a healthy relationship with the children even after the break up. It is the fear that drives that parent to use the judicial system to gain a tactical advantage.

The incentives of reaching an agreement by themselves is seen as a chance for the relationship to be mended and give room for healing after the conflicting events have taken place and put behind into the past or buried as there is no advantage gained by harbouring the resentment. Joint parenting help centers and means of overcoming disagreements by the use of a mediator or arbitrator. If the arrangement does not work then the

uncooperating parents lose the joint parenting role. The parents would have to come to a workable relationship rather than being and continuing to be difficult.

I had suggested this approach in my situation but it was rejected, and I had to go through the judicial system, and Naturally so because my ex-wife had the tactical advantage of gaining sole custody of the children by default through the bias that exists in the courts.

It is better that the parents spend their money on these sorts of services that can help to get the cooperation for joint parenting back on track than on the lawyers who can draw all the money they have in no time.

3.8. Holistic way

The judgment has a limited scope. The system of law imposes on the relationship based on a situation that is packed with emotional tension. The judgment has to take the family in a holistic way in the scope of relationships, emotions, time and space. Right now the judge hands down a judgment with a limited scope and expects the parent most concerned with the scope of the judgment to return to court to change the judgment with another judgment that again has a limited scope. All this is done at the expense of time, energy and money.

As time passes the children grow they will get used to the fact that the family conditions have changed. It always does affect all the family members. The break up of the family is the worst that can occur in the life of a child. SO living equal time with both parents is the next best thing.

The parents still need to talk to each other. The birth of the children has created a permanent bond between them. They may think that once the divorce has taken effect they are no longer answerable to each other. For the sake of the children they are still answerable to each other. Even though one of them would want to eliminate the other from their life.

One parent may choose to thwart the cooperation by being difficult. This must be detected right at the start. Each parent must put forward how the joint custody will take place.

3.9. Emerging need of men and fathers

What is the meaning of "emerging"? It has always been the case. Fathers are an important part of the family. How could it suddenly emerge? It is just that the court has been belittling their role for a very long time. It sounds as though the consequences of the actions and decisions made by the Family Court is showing up and the information is emerging from the woodwork.

The problems that a family faces at the time of breakup are mostly exacerbated by the decisions made by judges who apply their own personal opinion in passing the judgment. The resenting parent, usually the mother, is encouraged and given a free playground to use the children to inflict emotional pain on the father of the children. Even when the children express

their desire to be with their father is either distracted or rejected outright. The court does not get to hear of these instances.

3.10. **Balanced approach**

At least in the interest of the children that they have a balanced relationship with both parents and so cut out the crap that follows after the breakup. The relationship can then go to the next level UP rather than DOWN.

3.11. **Resilience of the family members**

The court system expects the members of the family to switch off the relationship with the children and move on the next relationship, which is likely to bomb out again given the situations in the past.

4. **Children Issues**

4.1. **Telephone contact**

Telephone contact is difficult with little children. They are not telephone savvy executives. They would rather have their parent sitting next to them cuddling them when they are communicating with them. Communicating with children is more than just words that they want to hear from the parent. They need hugs, cuddles and face-to-face play to pass on the message that the "Non-resident parent" loves them dearly.

The "out of sight-out of mind" syndrome takes affect. they would say, "Who needs Dad? When we want him he is not here." The major interaction comes to them from their mother and so their "love basket" gets full for that period of time and they have little to ask for from the father. When they want to they have to wait for the next time to get back together with their father.

The mother has no intention to have the children to maintain and build a healthy relationship with their father. Any reluctance of the children in maintaining a telephone conversation with the father is not seen as a problem by the resident parent, The response is "Well, the children don't want to talk to you." and hangs up on the father.

It is under these limited conditions that the father has to build an ongoing and solid relationship with the children.

Children being children are not really very keen to be talking on the phone. They would rather be cuddled up with their Dad and talk just when it is necessary. Not the way the telephone contact is arranged where they are required to talk for the 15 minutes or half hour and make a concentrated effort to talk to their Dad who is not physically present. This is not a warm situation to build a relationship with their Dad.

4.2. **Children's resilience**

This is a real joke

No Child want to have their Family broken up.

The children have absolutely no say in their parents breaking up. My kids had asked me on a number of occasions: "When are you and Mum getting back together?" There is no reply that I can give them that will make them feel happy.

The false idea used in family breakups is that the children are resilient, they will grow in to the new situation or structure of the family. It is similar to have lived through a holocaust and then be expected to forget the traumatic experience.

The children have their psychological arm in a twisted condition that is causing them pain continuously. Society expects them to put up with that condition of pain and get USED to it and expects them not to complain any more while ignoring the pain and its effects even in their adulthood.

4.3. Children Taking sides

In the case of a healthy family there is no preference with the children as to who they back. However when the parents breakup they call for the backing of the children and it is the children who get into the frenzy of who to back when actually they do not want the break up to occur. It all depends on where they get the most influence. In most cases the mother stealthily takes the children under her wing and the mother polarises them against the father. The children are caught in the crossfire and take sides based on what their emotions direct them. The mother usually takes advantage of the children's weakness rather than keep the children out of the "argument".

4.4. Children grow into adults

children do not remain babies forever. As the children grow they must interact with each of their parents on an equal level. Else the relationship becomes lopsided. This is what happens in a sole parenting and sole custody situation. When one of the parents abandons the family then this cannot be helped. It is similar to the event of death in the family of one of the parents.

4.5. Best interest of children

Their best interest has just been smashed at the time of the breakup. now look for the next best.

What is the best that a father can give to his children? "himself"

that the children have equal access to each of the parents and one parent is no better than the other.

The best interest of the children lies in their wholesome bond with both their parents on an equal basis.

If there is an imbalance it is because the roles were structured in that way to enable a workable means for the family's benefit. this is no reason for one parent to take advantage of when the relationship breaks down.

If one parent has a problem then both parents have a problem.

Parenting is gender neutral.

Mother can't be Dad

Father cannot be Mum.

Parenting is a joint effort.

Mum's and Dad's role is unique.

Just as there is no-fault divorce there should be no-fault parenting where children are involved.

4.6. Children are not at risk

Not all breakups involve violence or abuse. It is usually an argument that is not settled and minor issues that are used as an excuse to breakup. The arguments can become loud and affect the children. The argument can very well be carried out in a closed room or under the supervision of a counselor. This is not usually used early in the argument. It is only later that one of the partners finds that there are more arguments occurring in the family compared to fun or peace times and so decides to take advantage of the arguments to bring about a split in the family. **THE CHILDREN ARE NOT AT RISK.** It is the parent that paints a picture that they are at risk and uses them as allegations in the dealing resentment to the other parent.

In such cases the children should be given joint custody. There is no evidence of violence.

4.7. Child abuse

Yes in some situations this could be serious.

That joint custody is awarded in the case where there is no evidence of child abuse.

Even in these conditions the child still has to maintain a healthy relationship with the parent. so that the child can see a renewed parent after the acts of abuse have been rectified and amended. This will require a wholehearted change in the parent causing the abuse.

4.8. Children's perspective

The report states that:

Some current research (mostly from overseas) indicates that unresolved conflict between the parents is more damaging to children than the divorce itself.

the court system allows the resentment to continue and gives the mother the weapons to dish it out to the father of the children.

Turn this around and you might see some improvement in the outcome. Joint custody will go along way to improve this.

Children's counselor:

I suggested that the children see a counselor but the mother rejected this.

4.9. Children's perspective

This is usually influenced by the mother

They are polarized by the conflict.

When one parent has a problem the whole family has a problem.

The counselor who is appointed to get the children's perspective is limited in its scope. They are only getting a snap shot of the situation during the 15 to 20 minutes of the interview. They do not know the child fully and how they react in the company of their parent. Only the parent understands an action that takes place that and the child can be taken as an adverse condition in the view of the counselor. That is totally wrong.

The role of the counselor has been to FAULT one parent against the other depending on how the child reacts to the father in the counselor's presence.

The interview is carried out under stressful conditions and puts a burden on the already stressed emotions of the parent. While the other parent could be fully prepared for this and can beat out the other parent in maintaining composure in being treated as a guinea pig.

4.10. Focus on children

Yes the children have to be heard.. the present system does not consider the extent that the children have been influence by their mother.

The context in which the Court Counselor interview is done is very limited and does not have much scope, It is only a snapshot of the present situation and is only 15-20 minutes it takes for the interview to be conducted. There are statements made by the children in other circumstances that are not considered.

The counselor does not know the children for a very great length of time. and is also limited in her assessment while making far-fetched deductions of some interactions occurring between the children and the father.

The children having been through the conflict get polarised towards one parent and the parent can use that as a tactical advantage to gain custody of the children.

The mother uses the children as a commodity to trade. and use as a weapon together with the resentment against the father.

A good relationship is one that allows the children freedom to access both parents equally and to enjoy the goodness of the individual relationship. Conflict arises when selfishness and resentment creeps into the relationship. This continues to be a problem unless both the partners deal it with personally. The objectives of the relationship has to be maintained and held by both parents or else it becomes a one sided affair and all the members of the family are affected by the sickness that prevails.

The children loose out on the relationship with the father when a biased decision is made in favour of the mother.

4.11. Children

Children of families in conflict suffer the most because they are drawn into the conflict which not their creation. They become the pawns in the “fight” between the parents. Once the family has been broken the members become separate individuals who are related to one another. The children call one parent Dad and the other parent Mum. They each have a unique relationship that the other parent cannot fulfill or act as proxy. When neither parent has died there is no reason the children cannot have equal time with their parents.

Marriage is a promise made by both partners to include a permanency clause in their relationship so as to provide the children with a stable environment to grow up in. When the marriage breaks up there is no penalty imposed on the partner refusing to make the relationship workable. The parent leaving the marriage is not keeping the promise of the marriage at least for the children’s sake. This is a terrorist act on the children’s family. In spite of this act that same parent has been given the green signal after getting a statement from the counselor of the family report as “A parent that could not be faulted” When the primary fault in the parent is the fact that she broke up the children’s family. Now the children have a broken family that they have to contend with and live the rest of their lives not having an intact family and also not being able to get the full extent of o their Natural (DNA) Dad who has not abandoned them.

Parents exhibiting violence must be given a chance to change and maintain healthy relationships and to nurture their children. Violence is a result of uncontrolled burst of anger. The same can come out as resentment. This does not show up in a visible way but as a result of an unforgiving attitude. This is just as damaging to the relationship between the child and the other parent.

It is the resentment between the parents that prevents parents to come to an agreement together. This does not mean that they cannot be good parents. When it is known before hand that there will be joint custody awarded then there is little argument. The only thing left is that the parents have to cooperate and come up with a plan to bring about that joint custody arrangement.

Active parents - this is possible only when they are with the children, this is best at the time when the time is divided equally.

This is an Oxymoron - How can you be an active parent when you are NOT living with the children. How can anybody be a remote role model when their name is not even mentioned to the children in a positive way when they are not in the presence of the children.

The only way that active parenting roles can be strengthened is by giving joint custody at the very best.

4.12. Needs of the children

Their main need is to be associated to both parents. This is more stable rather than have them stay with one parent and the extra time they spend with the father depends on the whims and fancies and moods of the mother they are living with. If the parents cannot see the need of the children to spend equal time with the other parent this is sufficient evidence of resentment in that parent.

4.13. **Limited Child focus**

The system neglects the need for the children to have an equal bonding with each of the parents, particularly the father.

The children mention a number of times that they would like Mum and Dad together. The court does not hear this or simply disregards it.

The best interest of the children has already been smashed and the next step taken by the court is to make matters worse for them by tearing them away from one of the parents, particularly the Father.

The children are powerless in a system that purports to put their interests first. This is the big joke of the system.

The child in their infancy are influenced by the mother and rejects the father when in the guinea pig cage undergoing evaluation. This is taken as a case of awarding the custody of the children to the mother on a permanent basis without any call back on the case to see how the matter is progressing. It is the onus of the parent interested in the welfare and relationship with the children to bring the matter back to court. or they have to simply put up and shut up. If then do not have any money then it will be even worse.

4.14. **“Best interest of the child”**

It is important that both parents are involved in the day-to-day care of the children on an alternating basis.

WHY must one parent give up the day-to-day involvement in the care of the children?

Who has determined that this is the best interest of the children? The judges use their own personal opinion to give this judgment. When each of the parents are competent enough to care for the day to day care of the children so why can't it be made so?

Both parent are able to determine the best interest of the child when they do not let the resentment spill on to the children's relationship with the other parent. In the resentment they loose respect for the other parent. This must be recognised right at the start and penalised.

What is the scientific formula used to determine this?

5. **Parents Issues**

5.1. **No-Fault Parenting**

No Fault Divorce should be followed by no fault Parenting. The leaving partner can use the sole parenting and custody laws to commit a terrorist act on the children's home and family and also have the court award this act with the custody of the children. The best interest of the children has already been violated by the act of the leaving parent. The court casts a blind eye to this event.

5.2. Parenting is gender neutral

Childbirth is gender specific.

God/nature has determined that the children have two parents. the chromosomes and DNA are also divided equally in biological terms.

The father has an equal emotional bond with the children as does the mother.

The circumstances and situations have divided the responsibilities where one parent may be assigned to care for the home while the other is assigned to bring home the bacon. This is possible and valid in an intact home and family.

Once the family breaks down for whatever reason the above terms do not apply any longer. the parenting must then be divided equally for the children's sake even if this takes place gradually.

The best interest of the children has already been shattered when one of the parents decide to break up driven by selfish desires. The other parent is not left with any choice but to go through the breakup.

The current situation is such that when the relationship between the parents breaks down then the Father is standing on the wrong side of the line for taking part in the day-to-day care of the children. This is the gender bias carried by the judges and the system that it is taken advantage of by the mother even when there is enough evidence that the father has the capability of caring for the children on equal par as that of the mother.

There are sufficient possibilities for the father to acquire parenting skills and it is not always that the children are facing a risk from violence and abuse. The mother usually uses that as a tactic to gain advantage in the custody of the children.

The resentment that the parents retain, after the relationship has broken down, causes the conflict between the parents. This resentment is usually used by the mother to try and gain the advantage, says that there is not good communication to allow a joint custody of the children. The court has not been able to deal with this sort of attitude by the mother. This is just a farce because the court can and does order that the father go for anger management course to cure the alleged or actual violence while it ignores the resentment from the mother that may not necessarily show up in visible anger but can be used to give rise to difficult situations. If the mother gave up the resentment then the court could say that the atmosphere is good

enough for joint custody, something that the mother does not want to give in to.

The fact that the father is not DEAD as yet should be sufficient reason to have the children spend equal time with the father.

5.3. Separation

It is only the parents who are separating not the parent and the child. The child should still get to see both parents at an equal duration and be cared for by each parent.

5.4. Minimise conflict

This can only be done when you force such a condition. Start with joint custody as a default and with no contest. If there is evidence that this is not working and one parent is causing or being incorporative, then have a penalty to the parent who is not co-operating by forfeiting the joint custody.

Can you imagine it, at one time the parents are having sex and making love and having happy times with each other and then at another time they are in direct conflict for their own selfish demands under the guise of having the best interest of the children. Some sort of an Oxymoron. A clear evidence of resentment and an unforgiving nature.

5.5. Parents function cooperatively

When separation is inevitable then why should the parenting role be taken away from the father.

It is the responsibility of both parents to make an obligation to provide equally for the emotional and material well being of the children. The present system expects the father to provide for the material well being and the mother to provide the emotional well being. This is evident in the way the custody is handed down. The father is then screwed down by the tax return system while there is no way to make sure that the emotional contribution from the father is also monitored and balanced. Naturally, that cannot be done because it cannot be measured.

5.6. Marriage and divorce

They are the two sides of the coin. know your rights in both cases. There are equal rights for both parents. The children also have equal rights to access both parents equally. This should apply to both separating parents.

If you are married it really means that you are not divorced and there are things you need to do and know to have a happy marriage.

If you are divorced it really means that you are not married and there are things that you need to do and know to have a happy divorce without resentment and not carrying relationship decrease into the next relationship.

As of now one of the parents researches the steps and outcomes of the divorce privately. and decides to divorce because of the fact of the bias there is in the outcome of the custody of the children. It is usually the mother who

decides to separate knowing that she will be awarded the custody of the children if there is opposition from the father regarding the custody of the children. If there is no advantage of custody then there is greater chances that the urge to separate will subside and the leaving parent would have an incentive to keep the marriage or partnership going.

Both parents should have a plan in place for action to be taken to keep the marriage on track on the long term. If that cannot be possible because one of the parents has decided to leave the relationship, then they should already know what are the steps to take or are in place already to make sure that neither parent can claim an advantage of custody of the children

5.7. Separation and reconciliation

Calling for a separation by a parent is inherently an act of selfishness: First is SELF, second are the children who are helpless and have no say in the process and the ones who suffer most, Third is the relationship which is being dumped because separating parent considers herself as the one and only faultless person in the relationship.

Reconciliation: First is the relationship, Second are the Kids who benefit most from the relationship, and Third is the self who is curbing the resentment and selfish desires of getting even.

Some partner relationships are better off when they are broken up because of the emotional abuse that can occur equally for both partners, but this should not be at the expense of the relationship with the children. The court does not realise that. Instead the judges' personal views are brought into the judgment. In this day and age of equality of the sexes they should be sued for sexual discrimination. The father is being categorised as NOT being a good parent and not necessary or redundant in the bringing up of the children.

God/nature has determined that there are two parents for the child. The judges are saying that only the mother is significant. This is a serious mistake.

The counselors make an extra effort to find fault in one of the parents, particularly the father to determine what is "best" in the interest of the children. This is a big farce.

5.8. Power imbalances

This also comes about due to the gender of the spouse. The circumstances that lead to the delegation of the care of the children while the other parent is away on night shift or employment commitments to bring home the bacon. The parent assigned to care for the children becomes classed as the primary carer. SO the imbalance of power sets in. After this, typically, the father is to live in fear of having his children torn away from him in the event of a family breakdown.

The law should place an equal value in the role of the father in the children's lives, irrespective of the delegation of family duties. Once the family breaks down the delegation of duties is no longer valid.

The anger and resentment syndrome strikes in every family. It is a matter of how it is dealt with when such a thing appears. If there is power imbalance before the marriage breakdown the imbalance can very well shift the other way when the judgment of custody of the children is handed down. As it does now in the favour of the mother.

There are violent and dominant women also in the marriage that cause abuse for the husband.

6. Father Issues

6.1. designing services for Fathers

Fathers need to be brought out of the closet and be encouraged to take an active part in the face-to-face care of the children. They do however do their part in providing for the family by being the main wage earner usually.

The education campaign should include information that will prompt the father to take active part in the care of the children or he could "loose out" in the custody battle if such a thing was to occur in the relationship. This has a two edged effect one is that The family is benefited by the extra involvement of the father and the other is that the father has the fear of losing the relationship with the children can be avoided because the father has invested in the relationship when joint custody is established as a default.

Conflict occurs only when certain areas are not defined in the court system and each person has their own opinion of the situation and therefore they have to "fight" over the custody of the children. When there is no conflict there will be less need to use the system and partners can work matters out for themselves.

Conflict also occurs when the parents do not have any respect for the other parent's role in the lives of the children and so imposes their own will over the situation, thus increasing the level of conflict. The courts should hold and respect the equal role of each parent in the lives of the children, and award joint custody as a default.

It may be the case that one parent has contributes less in the care due to the circumstances that they may have been in. They must be given a fair go in caring for the children after the breakup.

6.2. My concerns

My concern is about marriage breakdowns that involve children. I am experiencing this in my life.

You are right in stating that the children of the family in conflict suffer the most.

I am very happy that you have come up with this overhaul of the family law system. The report contained in the Family Pathways has some very useful and factual points that highlight the deficiencies of the present system.

I am also glad that the intention is to make the system better in terms of equality and an emphasis is placed on the role of the father in the lives of the children.

Let me point out to you that not all breakups involve violence and abuse. It is mostly allegations by the mother to gain tactical advantage in getting custody of the children.

The children are tutored by the mother to reject the father under the false pretense that she cares of them more than their father.

But whatever is done it will not reduce the inherent pain that goes with the breakup.

You refer to family breakdown as though the whole family is breaking down. In actual fact it is only the relationship of the parents that has broken down. The relationship between the children and the parent is still intact. No child on this earth would ever want their family to breakdown. So the breakdown should only be limited to the two parents and not spread over to the children. The relationship between the children and their Dad is still intact. In a similar way their relationship between the children and their Mother is still intact. So please do not add more trauma to the breakdown by breaking the relationship between the father and the children.

6.3. Co-parenting from fathers

This should be an equal contribution in the emotional nurturing and the material needs wherever possible.

The children of the marriage were not born by accident. There was a commitment from both the parents that the child is born in to the family.

The present system belittles the role of the father turning it into a minor fraction of time under the pretense that the decision is in the best interest of the children.

Parenting is gender neutral. Father Mother role is gender specific. One cannot be substituted for the other.

6.4. Services for fathers

There is a community service provided where the father is educated and encouraged to take an equal role in the lives of the children.

Children NEED fathers equally

That father is encouraged to use "heart" language to communicate with the children.

That father know that the system will blow their role out of the water in the event of a family breakdown if they do not show active participation in the care of the children.

That parenting is a team effort and not a competition between the two parents. Caring for and trust play a vital part in the teamwork.

The parents are still a team in the care of the children and that should be encouraged in every stage of the marriage breakdown. The present system cuts that teamwork down to bits by tearing apart the father from the children.

Separation can be a positive experience if the events are handled with that in mind. The fact that there is no-fault divorce itself leaves the door wide open for that to take place. The no-fault divorce also brings about the consequences that the children have to face when the broken home is irresponsibly dumped on them.

Fathers also have a contribution to make in the children's lives. The children miss out on this contribution when the father is absent for the greater percentage of their growing years.

The frustration that comes about in a father when he cannot do anything to change the situation for being with his children can lead to a negative influence and a feeling of not achieving anything in the lives of children that he loves so much. The mother of the children can care for herself. The children need their father when the need is the greatest. If not, this leads the children to grow up as deficient in the needs that can only be fulfilled by the father. Postponing the relationship with the father only leads to psychological problems in the child as they grow into adults.

Just giving a slot of time is not sufficient as that the courts have been doing now. You cannot pack a mountain of relationship stuff in the span of a few hours. It requires a continuous rubbing of shoulders. This is not possible with telephone contact but by physically being together over extended periods of time.

When the mother is hostile and resentful the father cannot build a healthy relationship with the children.

The children become jailed in a dominating broken home by the courts and the consequences that come with it all due to the selfish attitude of one of the parents.

7. Education For Parents

7.1. Anger vs. resentment

Take a cylinder of LPG. If the gas in the cylinder is let out into a room and inadvertently set alight, the consequences will be very grave. There will be an explosion. People could be hurt and property could be damaged. This is anger when it not controlled and let loose irresponsibly. It creates visible evidence of the damage done and can be the cause of the family breakdown.

The courts would in this instance impose barriers between the parent and the other members of the family. The parent could realise the consequences of the damage and show some remorse and make amends by changing behaviour through counseling and education.

Similarly, IF the same amount of gas in the cylinder were allowed to burn at a very slow rate, under controlled conditions it would result in resentment. Actions of the parent having resentment may not show visible evidence of abuse but slowly over time the results would be the same as the former situation. This is not dealt with the orders of the court. The court does not cover or has a means of dealing with these sorts of attitudes. I was told that The court couldn't order somebody to be friendly!!!

The first instance is stereotypically seen in Males and some females. The second is displayed by the mother who has been given the custody of the children, and so can use them and the resentment to bring about the same consequences as the explosive instance of anger. The playground is clear and the mother who has chosen to be inflexible in sharing the joint custody of the children sets the rules.

7.2. Violence and abuse

The court should order joint custody with the children. The accused party should be seen as being innocent unless the incidence of violence is proven. In most cases this is only an allegation.

The allegation of violence has to be challenged and so gives rise to too much adversarial behaviour.

When there is no evidence of Violence then a joint custody should be the default decision and you don't need a judge to work that out. There is no favour or bias.

7.3. Education

A breakup can be prevented

This can only be done when the family law system warns the persons involved before getting into the relationship what to expect when the relationship breaks down. that here is pain involved at the end of the road and that there should be enough effort put into the relationship to keep it going and healthy by the parents taking part equally in the care of the children and participating in the duties that go along with the relationship.

This might be a better area to put all the investment dollars of the government than to try make the system easy to handle and do what it takes to breakup what is broken already.

The partners should be warned that when a conflict arises during the relationship that it could be a possible cause for a breakup and so do what it takes to hold things together in a happy marriage or prepare for the eventual happy breakup. This would involve taking the necessary evidence and keeping a record for their equal involvement in the care of the children and

the duties in the operations of the home. And MOST of all NEVER use abuse as a means of getting your way. It will disadvantage your case for getting joint custody of the children.

All this involves walking the tight rope during the relationship so that whatever the outcome the consequences will be happy for both parties and no one can take advantage over the other. and either parent has nothing to loose.

Property can then be divided equally.

The fact that there are so many divorces and breakups, the couple should do what it takes to get the best of both worlds i.e.. in the relationship and also when the relationship breaks down.

The children can then be assured that they will be taken care of whatever the outcome because the parents are not being selfish but putting in their share in the building up of the relationship.

7.4. Education for separating parents

The education campaign should take into account the requirements needed for dealing with divorce or breakups and to keep sufficient record of evidence and NEVER use violence or abuse. It will only go against you in gaining joint custody of the children.

Each marriage or a relationship is a family law case - know your rights.

Ads to encourage fathers to take an active part in parenting and care for the well being of the children, if they are to see joint custody of the children if a breakup should occur. Isolate the children from the conflicts between the two parents.

There are children growing up in broken homes, they need a wholesome education for maintaining good relationships with both parents and to know their rights within the relationship to deal with conflicts and disagreements.

That the father has an important role in the family and he should not neglect it. The children should be educated that the father has an important roll to play in the children's development. The children should not neglect this.

Children never look upon their parents as people with faults and problems. Children should be given the opportunity to build a healthy relationship with the father.

7.5. Information

TV ads to say what to do when there is conflict in a relationship.

NEVER use violence and abuse

Assess both alternatives:

continue with the relationship

get relationship counseling to fix up problems

Deal with the issues

Share your innermost feelings

Discontinue with the relationship

Put together your evidence for joint custody and pack your bags.

Using the threat to leave the relationship is available for both parents.

If you are married it means that you are not divorced.

The relationship can come to an end within the marriage. there is an overlap of divorce and marriage.

Education for proper parenting and care of the child by both parents to prevent breakdown. Both parents can understand the situation.

7.6. Early help with separation

Both parents should be educated with the options of separating, along with the rights and no-no's when in the process of separation. A continuous television campaign is broadcast so that neither parent is locked into an abusive relationship. the father too should have equal rights in the parenting role if there are sufficient reasons to breakup.

7.7. Effective communication

Yes this is extremely desirable even to keep the marriage going on track and happy and also to make a joint custody workable. Once the children are born there is a permanent bond between the two separating parents. The bible says that they become ONE flesh in the child. That is evident in the birth of the children they are the unification of the parents as a result of the deepest level of physical sexual intimacy that they have engaged in.

The parents who create conflict should be sent to parenting lessons, conflict resolution and communication skills as that are very important in the role of being a parent. If this is not considered then the conflicting parent could bulldoze the children to comply with his/her adamant demands. You don't need communication skills to be adamant, demanding, controlling or possessive.

One parent does not respect the role of the other parent in the lives of the children. This attitude should be struck down in the first instance. As the conflicting parent does not care for the feeling of the children towards the other parent. The children continually long for the parents to get back together.

If the first option is joint custody there is little reason that the parents should return to vary the parenting orders. Unless for very extreme cases of abuse or irresponsible lifestyle behaviour.

7.8. Education

Safe relationships

Safe sex

Safe parenting

Safe marriages

Safe breakups

Safe Divorces

Be happy and Be prepared for the worst

Divorces are natural earthquake disasters waiting to happen to the family. With the present laws the father is standing on the wrong side of the fault line with respect to the day-to-day care of the children.

It is the woman who makes the decision to separate 64% to 21% compared to men. This is because they have something to gain from the breakup. It is either the children or the money.

8. System of the Family Court

8.1. Adversarial behaviour

If there was no reason to obtain a tactical advantage in the custody of the children such behaviour can be eliminated.

Right now the Father is on the wrong side of the line with respect of the care of the children when a family breakup occurs. And also the mother does not want to give up the children as they are her source of emotional support and an instrument for power play.

Adversarial behaviour occurs when one of the parents has a deep resentment towards the other parent. This is the driving force of the conflict. There is no forgiveness and getting revenge is the objective of the exercise.

The Court has no control of this attitude of resentment. They cannot get the conflicting parent to change their attitude and become cooperative and friendly.

The court can direct a parent, usually the father, to get anger management if such behaviour has been evident in the past. This is evident only by visible actions of violence and abuse that has occurred in the past. There is no corrective action that can be ordered for hidden resentment in the mother.

A vengeful and resentful attitude waits to take place in the future. The resentment is expressed through the contact orders that have already been granted to the mother usually.

The system allows it and the adversarial behaviour is used by the MOTHER to suggest to the court that joint custody is not possible due to the lack of communication between the parents.

In the present system, the custody is by default given to the mother even when the communication is good enough.

The court cannot do anything about the resentment carried by the mother that she can bring up after the court process is over and hinders a healthy build of relationship between the father and the children.

The court takes offense when the father shows anger and determines that he should attend anger management course, while there is no remedy for anyone who harbors resentment and uses it to inflict emotional pain on the father on an ongoing basis in the years that follow.

Conflict occurs in areas that are not defined in the outset. Custody is one of them. Or now it is such that even when the father has been fully involved in the care of the children he is not able to have joint custody. This is something to be fought over.

8.2. Adversarial approach

Keep this sort of approach out of the matter for the joint custody of the children. It is the children who suffer in the end. So if the system is to protect their interest then the process should start well ahead in time, even before the breakup takes place.

Give extra education or incentives to the father to take up practices and involvement to strengthen their bonds with the children well before the conflict occurs.

Obtaining early information is important. Once the persons register their union they should be put on a mailing list to receive tips to improve their chances of having a good communication before to even after the relationship ends.

Powerlessness comes in when the court is biased to favour only the Mother child relationship at the expense of the Father child relationship.

The sole custody must not be permanent. It should be stated well in advance that the objective is to get joint custody for the best interest of the children. The mother can take for granted that she can be resentful without being pulled up on it. That the sole custody will end sooner than the child reaches 18 years age.

If the mother of the children had agreed on joint custody then I would not have used the legal pathway. But she was determined to be difficult. I decide that it would be best to accept an order by consent so that the relationship can mend at least for the good of the children. But in spite of that the mother is still being difficult. She is harbouring resentment for her own personal interest.

It is only after going through the legal system that I now know what it is all about and how they operate. Or else I still would not have had a clue. This has cost me a great deal of money, and still at the end of it I do not have joint custody of the children.

8.3. Costs

The vultures are waiting out there to prey on the emotional hurts experienced non-resident parent in the decisions handed down and even in the interim orders.

The emotional cost of losing contact with the children is more than the Dollar value that it takes to go through the court process. On the other hand the resentment is driving it from the other side.

8.4. Equity

Contact orders and child support are not enforced in a balanced way. The father is forced to pay the child support while the mother is not pulled up when the times of contact telephone or even face to face is not co-operated with.

Child support is \$\$\$ this is taken care of at tax return time there is no way of escaping the requirement of payment. But the problems that occur for face-to-face contact to telephone contact are not added up as the \$\$ are and so there is a hole in the relationship that is not compensated. The children will not remain children forever. They will have missed out on-the goodness of their relationship with their father.

The Judge should be ordered to give joint custody of the children to the two parents and have the difficult parent to behave or have the parenting role forfeited.

Parenting is a job of co-operation between the two parents who initially decided to get into the joint parenting role previously under happy conditions.

8.5. Biased judge

Oxymoron

the lawyers have no clue of what the judge will rule since each judge is different and each one has his/her own pet peeves

There is no consistency

I had accumulated all the evidence but in spite of that the lawyer did not know what evidence to ask for.

8.6. the Court Counselor

the court counselor who assesses the children and the family situation

The main intent is to observe the family as a bunch of guinea pigs and pick out the variations in attachment between the children towards each of the parents. The counselor then makes an assessment of the case that is primarily to drive a wedge between the children and ONE of the parents. This lays the foundation for the deterioration of the relationship between the children and the NON-resident parent.

The idea is to FAULT one parent against the other in order to provide children with a so-called “stability”. Instead it gives them a lopsided view of life that one parent is BETTER than the other.

The judge then uses this assessment as from an “independent” person and further damages the relationship between the children and the NON-resident parent. It is laid in concrete and it is like spreading a disease. The courts do this all the time.

It is then the onus of the NON-resident parent to build up a solid relationship based on the circumstance that he is placed in. The court imposes the up hill task on him.

He gets absolutely NO help from the resident parent who has this resentment against him and lauds and encourages the children to neglect the relationship with their father.

On the other hand joint custody will go a long way to heal and build a healthy relationship between the children and both parents and not just one.

8.7. Access to legal services

If the conflict is kept low in the first place there will be less need for the external services to be used.

The lawyers are inhibited in looking at the case as a whole and give a sure outcome. they say that the outcome is based only on the judge’s decision. They can only give an opinion that may not be true.

The judges are biased against the men as a gender and instances such as intervention orders taken against the father by the mother based on allegations.

The lawyer’s charges are very high and they are not very friendly. Their intention is only to provide some sort of a legal service for a huge price. You should provide some comprehensive do it yourself kits. But the situation is such that the emotional stress and distress prohibits a parent to do it themselves. They can only do it when there is the least amount of conflict and that can be possible only when they are fully prepared for the breakup. Breakup information should be provided at the time of the marriage or start of relationship or as soon as the conflict sets in. Usually the yelling takes place only to “win” the argument through frustration.

The lawyers are not friendly. They are not buddies of the clients. every opinion or action from them carries a fee. Even photocopying is very expensive.

8.8. Improving awareness of low conflict services

One parent may make the whole process difficult. This should be identified early in the process. This is done mostly to have tactical advantage in the breakup to inflict pain on the other parent by means of the children.

When the joint custody first option is taken, there will be less fear in the relationship, and so will add to the bonding of the relationship because there will be no advantage gained in the breakup. So the breakup will have to be justified by other means such as incompatibility and intense dislike of hidden characteristics of the other parent or even violence or abuse.

8.9. Incentives to obligatory participation

These would be good if it has an affect on the attitudes of the parent with respect to each other to form a co-operating partnership between each other for the good of the children and their joint care.

The present system and also the future system should not provide either parent to drive a wedge between the child and the other parent's relationship. It is a matter of respect for the role of the parent in the life of the children.

Neither parent is less of a parent compared to the other.

8.10. Self represented litigants

Self-represented litigants need more help to bypass the system of lawyers so that there are fewer costs. Self-help kits are important. But the emotional and mental agony of a breakup can prevent to build a proper case. They could be encouraged to use family and friends to help them with the case.

8.11. Self Help Pathways

This is possible only when the two parents co-operate for the best interest of the children. The father is also a parent for the child and is equally interested in the welfare of the children.

8.12. Litigated Pathways

The mother could take an opposing stand toward the father totally condemning him at a personal level and making any sort of agreement difficult and prevent the father equal access to the children.

There is no violence in most cases but the difficult and flexible attitude taken by the other parent with regard to the care of the children.

The law is biased OR it provides the options for the judge to make a biased judgment under the guise of being in the best interest of the children. The decision is not followed up as a review.

The lawyers put pressure on the father to accept the lesser deal in the case as they perceive that the judgment from the judge could be even worse.

8.13. Delays in the system

This could have a negative outcome for the children as in this case where the mother was awarded sole custody at the interim hearing. The mother was awarded the custody of the children as being a "Standard" decision without considering the benefits the children would have if they were jointly cared for by the father.

When the case comes up for hearing again, the judge could rule that the situation remain the way it is, because the children have got “used to” the routine of the sole custody.

The children are manipulated by the custodial parent to say that the current arrangement is working well and they do not want to change.

8.14. The system is not fair

The children are deprived of a relationship with their father typically. The father is available to provide many aspects of role model for the children.

Each of the parents is the primary carer of the children. The childcare centre carer is the secondary carer. Even Aunts and Grand parents fall into this category of the secondary carer.

8.15. Limited focus of the children

Children’s needs - they need both parents for their development and growth.

Children experiencing parental separation - why should there be a need for the children to separate from their parents when only the parents decide to separate? The children have done nothing to deserve the separation from their parents. Their need lies in having a wholesome and growing relationship with their parents. Anybody who suggests that the children also have to suffer from the selfish act of family breakdown does not care for the children.

Their mother usually influences the voice of the children when they are infants. This happens in a bid to gain their support for the act of separation. A father can also care for the child just as effectively.

When the family was intact each member of the family had a role to play in the family “template” Once this template is removed there are now unique individuals who have a unique relationship with each of the other individuals. Each of these individuals must maintain the same relationship forever even when the parents live in different locations. The time the children spend with each of their parents is determined by the significance of their relationship. Both parents have primary significance on an equal basis in the lives of the children. This is evident in the DNA and distribution of the chromosomes.

The process of conducting a family report at a time when there is tension of who is getting the custody of the children can be very stressful and that too immediately after the breakup of the family. What the children say during the 15 to 20 minutes has a very limited scope. What the children say and do beyond this time is not considered. The fact that the relationship and understanding between the parent and the child change with time and grows is not considered in the time of passing the judgment.

8.16. Contested litigation

the free and equal access to both the parents is the best interest of the children. The parents have to tailor their involvement accordingly. If parents

have to move interstate then equal time is very important. The parents still have to talk to each other for the sake of the children.

The children are the winners when that can have equal access to their parents. No child wants the family broken up. there is no reason that their intimate relationship with both parents should be affected when the parents separate.

The parents should stick together for the sake of the child and work through issues to keep a happy relationship going. the act of breaking up the family is a selfish act on the part of the leaving parent.

8.17. Access to legal services

This should be made available at the time the partners go into a relationship together rather than later when the conflict has set in and one parent has attained a tactical advantage over the other either deliberately or by how the circumstances stacked up unconsciously. They should take up divorce insurance.

What to do when the other parent becomes uncooperative in determining the future and the care of the children starting from the joint custody option as the first requirement.

8.18. Likely outcome

The lawyers simply took the opposite stand and have the judge to make the judgment.

This is not known until the case comes up and a judge has been assigned. The judges track record and attitude in past cases determines the outcome. So the lawyers do not know what will happen. The law should make it clear in the start and not have to depend on the opinion of someone who does not have the slightest clue of what will happen. Even the lawyers are guessing. They say that if the client insists they will simply go along for the ride as long as their charges for their services has been taken care of in advance.

The outcome cannot be determined because the parties each have a different requirements of the what they think is the best for them rather than what is best for the children. The law should make this clear right at the start. that joint custody is the starting point because the child **MUST** have equal access to both parents. The parents should then tailor their lives to suit this. Not that the children should conform to the whims and fancies of one parent and their need for the relationship with the other parent should suffer.

8.19. The family court is not a court of justice

The report mentions that:

In a traditional adversarial system, court hearings are conducted by the parties or their representatives with the judge maintaining a neutral, purely adjudicative, role.

There is no scientific process where the judgment given. It is a best guess of issues that involve emotions packed with anger and resentment. Where one parent is faulted against the other in parenting the children. The conflicting parent usually the mother is given the license to hand out her resentment to the other parent at the expense of what is in the best interest of the children. In spite of the fact that the children's needs change as they mature.

8.20. **Research**

Research on the affects of divorce on children

There is sufficient research available that suggests that joint custody of the children gives a better foundation for the children to grow up into balanced adults.

Judith Wallerstein

Research

A family is a family whether in Australia or overseas. There is research done in the USA that can also help in family situations in Australia.

The changes that occur in the family should actually be for the better.

Case study research

Out of the 52,000 divorces that took place during 1999-2000 only 20 individuals were taken for the sample. I would wonder if this is sufficient to cover the broad range of cases. Each individual case is different. and just 20 cases cannot be used for a generalisation.

There is more research taken place in the USA. One book written as a result of this research is by Judith Wallerstein. This covers the effect the family breakup has on children.

"The Unexpected Legacy of Divorce - a 25 year study" by Judith Wallerstein.

9. **Principles underpinning the Law**

9.1. **The NEW best interest of the child**

Children have a right to know and be cared for day to day EQUALLY by both their parents.

Right to contact on regular and EQUAL basis with both their parents.

Parents EQUALLY share duties and responsibilities in the care welfare and development of their children and not limited to the dollars.

Parents should AGREE about the future parenting of their children. Any conflicting attitude of any parent should be put down if it deviates from the equality of the responsibilities.

9.2. **Start from this foundation.**

The idea of "its always been done this way" should revisit this foundation and apply it without the gender bias and inequality that the family courts have handed out in the past.

The no-fault divorce laws should be backed up with the no-fault parenting laws.

Neither parent should be faulted in their parenting role unless of course there are grave dangers violence and abuse. Even then the parents should be given a chance and opportunity to mend under supervision.

9.3. Non judicial process

Set it out that the courts will be seeing the parenting role of each parent on an equal basis and no parent will have the advantage of claiming to be the "primary carer" of the children. It is not in the best interest of the children, as the children will be growing into adults and will not remain babies forever.

Any steps taken by any parent to gain a tactical advantage in the process will make the process more complicated, and should not count towards the awarding the joint custody of the children.

Both parents should be warned well in advance not to commit acts that will disadvantage them in gaining custody of the children, such as being violent or abusive. Any conflict that arises should be dealt with early using the help of a registered relationship counselor. This should be recorded and be considered as credits earned for either parent being cooperative and willing to respect the other parent's role in the lives of the children. Awarding the joint custody of the children should be based on the maturity shown by either parent in resolving conflict. This should help in keeping the marriage on the tracks as there will be numerous advantages in this process.

It is better that the parents spend their money on the reconciliation and resolution of conflict path rather than the judicial process. A record kept in this regard should be used as evidence that the parent is willing to use the non-judicial process and be given the benefit of the doubt in being capable of caring for the best interest of the children.

If the system allows and encourages the use of judicial process in gaining tactical advantage in the custody of the children then that is the route that will be taken by those whom it favours as it does now. It favours the mother based on the gender and continually discounts the role of the father in the lives of the children. So the mother uses that path.

9.4. Legal advice given to me as a Father

I was advised to step back from my demand for a joint custody. There would be absolutely no hope of getting it from the judge. The present system being what it is.

This happened twice. Once during the interim hearing and the second during the final hearing.

The judge assigned to the case had a record of having a heavy hand on the father.

There is huge bias in the system. The best interest of the child as seen by the courts is simply a farce.

9.5. Safety of the children

This is the case of the anger and resentment mentioned elsewhere in this submission. Both are dangerous for the family.

The father is stereotypically taken as being violent with his outbursts of anger causing visible injury. He may however regret this act and show remorse at a later stage. He should be given a fair go when he shows evidence of improvement and cares for the children after some corrective action has taken place.

The court does not consider the resentment shown by the mother as it does not show immediate evidence that it can deal with for getting the resenting parent to take corrective behaviour management to change that attitude. This becomes evident over the years that pass by and the father is helpless and faced by this wall that is built between him and the children due to the resenting mother.

9.6. Financial support

This is easy to implement. Just grab the father and grind out the money that is required for the support of the children. This can be done during the tax return time. and any short fall is recovered from him through forced labour in prison.

There is no matching onus shown or used by the system by which the father can build a growing and solid relationship with his children. when their mother is imposing all the barriers for such a growth to take place. The joint custody first option is the fairest way to implement this balance. and it is in the best interest of the children.

10. What the group heard

10.1. The best interest of the children

It is just that the parents fight for the custody of the children through the resentment that they have for each other it is that one parent has more resentment than the other and so takes action to cause conflict that is detrimental to the best interest of the children.

No-fault parenting must follow no fault divorce where the children spend equal time with the parents for the good of the children and not for the good of the parent as it is presently seen by the court. As a result all the members of the "family" grow in a balanced way.

10.2. Frustrated and discontented

This is due to the fact that the judges think in a limited scope, with respect to the growth of the children to develop healthy relationship with their parents equally.

Even when the father has shown evidence that he can take care of the children the judge awards the custody of the children to the mother. This is gender bias because the "law" allow them to make take this line of thinking.

Even the family report is structured that one parent is faulted against the other. It is usually the father who is deliberately faulted.

The judge must be ordered to give joint custody by the parliamentary law makers.

10.3. Some people manage on their own

Because the children are not used as a tool to express resentment toward the other parent usually the father. The breakup is limited to between the parents and not extended to the children. The parents respect the children and the role of the other parent in the lives of the children.

10.4. men felt angry, frustrated and hopeless

Child birth is gender specific but Parenting is gender neutral

The relationship between fathers and their children are most affected by the present law. The law needs to change to a joint custody at the very outset and by default.

10.5. Women

Yes there are instances of violence but this is not the case with all breakups. Women are also violent and resentful. Anger is gender neutral.

Their view of not having contact with the father increased shows how they want to control the situation. It is only to serve their own interests.

10.6. Common

Family breakdowns can be devastating for all the members of the family involved.

When one partner has a problem then the whole family has a problem. When one of them is resentful then the other has to put in extra effort to overcome the barriers set out by this attitude.

10.7. Some people manage well

So if you examine the reasons why they can do that, apply the characteristics to the situations where there is conflict and adversarial behaviour.

They do not spill their conflict on to the matters relating to the children.

Some mothers respect the father's role in the lives of the children. They practice a degree of maturity. They do not let negative behaviors set into the relationship with the children.