

Dear Senate Inquiry - Shared Parental Responsibility Bill 2005

This is a my submission to the Senate Inquiry into the provisions of the Family Law Amendment (Shared Parental Responsibility) Bill 2005

Dear all see below the article I have sent you.

Men's Rights Agency, Brisbane, Queensland (Sue & Reg Price, Directors)

"Disenfranchised fathers still unequal when it comes to child custody"
By Sue Price

The Howard Government's recently announced intention to introduce Family Relationship Centres as the salve for separating couples is a poor alternative to real reform of the laws and social policies that have for the past 30 years caused untold disruption and contributed to the destabilisation of the cornerstone of Australian society - the family.

Last July the Prime Minister committed to investigate whether separated fathers should be "allowed" equal time with their children and if the system for levying child support payment was fair to all parties.

In answer, the Parliamentary Committee, chaired by Kay Hull, produced a timid report rejecting 50/50 joint custody, but recommending unnecessary amendments to the Family Law Act in favour of "equal shared parental responsibility", a requirement already included in legislation, together with their ultimate weapon of mass distraction - the establishment of a third level of quasi-judicial intervention - Family Tribunals.

Unfortunately, the issues of joint custody and creating a fair child support scheme were lost amidst the plethora of comments about the legality, operational difficulties and implementation costs of setting up a new network of Family Tribunals.

Failure to endorse the principle of joint custody, sometimes expressed more effectively as shared and equal parenting, clearly relegates the importance of one parent, usually the father, to second place on the ladder. When legislators, government bureaucracies and courts, work under an impression that one parent is not as important as the other, the role of that parent will be considerably diminished, sadly to the detriment of both the child(ren) and the parent.

The outcome of the Report surprised most fathers, grandparents and their advocates because the attitude of the Committee during its hastily convened hearings seemed to be supportive of the proposals that both parents should be regarded as equally essential and important in their child(ren)'s lives and that extended family, particularly grandparents, added great value to the upbringing of these children. Fathers and their representatives reported that for the first time they felt as if they had been heard and the wish of fathers to be regarded as something more than faceless money providers was being accepted.

Women's advocates on the other hand may have been shocked by the demands of the Committee to produce verifiable figures to support their claims alleging rampant domestic violence and child abuse, which, according to their agenda, required the urgent removal of perfectly good fathers from their children's lives.

Committee member MP Peter Dutton pursued the issue of false allegations of domestic violence and child abuse throughout the inquiry. He asked Dr Elspeth McInnes, co-chair of the National Council of Single Mothers and their Children how many cases are there "of sexual abuse which are perpetrated by the father, as opposed to introduced male partners". McInnes admitted for the first time

that "Stepfathers are more often offenders against children they live with than biological fathers".

International research shows that less than 1 per cent of children are sexually abused by their fathers, yet a survey commissioned by the Department of Family and Community Services showed 35 per cent of female health, education and welfare professionals believe up to 24 per cent of fathers abuse their children

Over 122 international and Australian studies demonstrate that women are as physically aggressive, or more aggressive, than men in their relationships with their spouses or male partners, yet the Committee failed to directly acknowledge the level of false allegations used as a tool to denigrate fathers, instead preferring to follow the current dogma espoused by the domestic violence industry.

In fact the Committee seems to have placed more importance on violence issues than ensuring both parents continue to share the care of their children. It goes without saying that parents and children must be protected from violence, but our laws and policy discussions are being framed under the false impression that violence occurs in a significant number of families rather than the reality that that it only happens in a small minority. The vast majority of parents do not present any danger to their children, yet women's advocate over the years have attempted to paint a picture that all fathers take on a Jekyll and Hyde personality after separation and participate in all manner of child abuse and family violence.

Not satisfied with the state criminal laws that were available to deal with offenders who commit physical or sexual abuse, domestic violence advocates pushed for the introduction in the 1980s of special laws to cover all manner of family disputes, whether they be physical assault or a cross word. Just a complaint of fear, symptoms of paranoia, present or not, is enough to remove a person, without trial, from their home and children. A more appropriate solution to deal with allegations of non-physical abuse would be through counselling, leaving the police and courts free to provide adequate sanctions to protect those really in need. Domestic violence legislation removes the basic right of people to be regarded as innocent before being found guilty or not. One might expect such repressive legislation to be found in tyrannical regimes, but surely not in a country claiming to value the democratic rights and freedoms of its populace.

Coalition Committee members, when challenged about their poor response to the evidence put before them, claimed a need to reach consensus with their Labor colleagues to ensure passage of legislative changes through the Senate. Since when has the Coalition felt a need to come to unanimous agreement with the opposition, especially in the face of a new election that may change the balance in the Senate anyway?

The final disappointment of this whole charade is the Howard Government's attempt to dupe the fathers of Australia into believing the introduction of "shared parental responsibility" is a new concept that will give them equal shared care of their children

Shared parental responsibility has been included in the Family Law Act since the concept of "guardianship" which inferred "parental rights" was removed in 1995. At the same time all reference to parental rights itself, despite the Australian Constitution clearly acknowledging the existence of those rights, was also removed, thereby leaving our children to the mercies of the sole arbiter, the Chief Justice of the Family Court.

Included in Howard's 4-page framework statement is a proposal to introduce 65 Family Relationship Centres, believed to be modelled, on the Canadian equivalent

- Family Justices Centres. Reports from Canada indicate the only people successfully using these centres are those prepared to be fair with each other. Unless parents are prepared to acknowledge that the other parent is equally important in their child's life there is little hope they will acquiesce during the allocated three counselling sessions. Often too much is at stake financially to concede parenting time to the other parent. Shared care reduces the amount of child support paid as it should do and also reduces the likelihood of an unequal distribution of property.

Despite promises to monitor the calibre of staff employed in the centres most realise this is an impossible task. Within two days of the announcement being made, a self-confessed pro-feminist social worker said she would apply for a job in the new centres because the pay would be better and she would have an opportunity to ensure justice for women.

Without a foundation in law that both parents have a right to be a parent and to be regarded as equal in all respects to their children then the existing dogma will continue. Legislation is needed to support and acknowledge such a significant change and previous precedents, set when expectations supported "sole mother custody" or "primary carer" preference, should be disqualified from further use.

Using the concept of the "best interest of the child" as paramount may take the moral high ground, but could be regarded as foolish. One cannot separate a child's interest from those of its parents, other siblings and other family members. Parents, separated or not, are the people best able to make those decisions and balance the competing "best interests" of all parties.

Yet the Family Court clings to this principle as their justification for the removal of parents from their children's lives. There is every reason to suspect one of the difficulties facing parents now is how to raise children who are unselfish and are considerate of others needs, when children are being given the message that their best interests override all others and their parents have no right to tell them what to do.

Canadian social scientist K.C. Wilson suggests, in his book Co-parenting for Everyone, that children have only two rights as follows. His suggestion does not diminish the protection of children:

The same right as any member of society to freedom from abuse and exploitation. This does not require new laws, but applying those we have. You often hear, "Children are our future". Not true. They are part of society now and deserve that consideration. The right to its entire family. The right to the advocacy and care and nurturing of both its parents equally, and through them the parent's families. Why should the parent's marital status have anything to do with this?

Children certainly have rights, but so do others and rights afforded to any person should not inflict disadvantage on another when they exercise those rights. If we wish to raise children who are able to contribute to our society we should be teaching them how to live with others, not elevating their status above all others.

Without legislative change, more fathers will take their own lives - currently it is estimated that more than 24 a week do - and more children will grow up without the benefit of having both parents to guide and nurture their progress to adulthood.

The Howard Government has inexplicably failed to secure lasting change for the benefit of both parents and their children. In the final analysis many are

convinced the Committee of Inquiry was nothing more than an elaborate ploy to silence the growing anger of disenfranchised fathers.

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Thank you for reading my submission

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