

**Inquiry into Australia's Judicial System, the Role of Judges and Access to Justice.**

**By – Senate Legal and Constitutional Affairs Committee.**

*Submission by -*

EM:

*Introduction:*

- a- I am not a legal practitioner, but have had some semi-academic legalistic training.
- b- I have had very little direct involvement with various Courts except for the Family Court, mainly in the late 1990s/early 2000s.
- c- I believe that there are too many Courts in Australia – with too many different rules re evidence, etc. Jurisdictions need to be rationalised. This of course could only happen with a complete overhaul of the various legal systems – but this could be initiated by the Commonwealth where any law could be applied across state borders; or where ‘entities’ are registered with the Commonwealth.
- d- I have been arrested about 5 or 6 times on false allegations of assault – the NSW Police in local Court withdrew all charges prior to a hearing when they realised that there was no ‘real’ evidence.
- e- In a Family Court hearing before a Judicial Registrar and prior to the property hearing it was found that I had been the victim of physical assault by
- f- I am an Engineer by profession. My training/experience has included automotive, electrical, mechanical, civil, traffic and computing. The major part of my working life has been associated with computer engineering – both software and hardware. I have generally been involved with computer systems support where I have had to analyse/diagnose various systems to debug problems or improve systems. To do this I have had to be very methodical and logical in all my work.
- g- In the 1990s, I was self-employed as a Computer Engineer working out of my home, purchased in 1978 as a result of a formal undertaking given in the NSW Workers Compensation Commission, which I believed was legally binding.
- h- I have had one case in the Supreme Court of NSW where I had difficulty in sorting out the required formatting of documents. In the actual Court during procedural hearings I thought that the Judge went to a lot of trouble to help a young man who had difficulties with the language and processes.



6. I was not directly involved with the subsequent Full Court Appeal that had to be lodged within one month of the judgment being handed down.
7. In my later analysis of the formal judgment I found many items that I knew were not correct or did not agree with other items in the judgment, or the evidence presented.
8. I spent many days in the Family Court building in later months and for various reasons, I was on speaking terms with many legal practitioners. At one time I was told that the judge who had heard my property case had been appointed as the 'administrative Judge' as he was "an embarrassment on the bench".
9. Later – one of the Full Court Judges told me in Court that the Family Court was NOT the place to seek "Truth and Justice". He also stated formally details of my property hearing judgment that disagree with the printed version of the judgment that was sent to me.
  - a. I have not been able to determine whether the copy of the judgment that was sent to me was the 'correct' official version or whether the Full Court failed to do a proper analytical analysis of the judgment and the evidence. The Appeal was based on the fact that the Judgment and Orders did not reflect the evidence.
  - b.
10. Another anecdotal problem is that of the Court appointment of a "Children's Representative". This representative is usually/normally seated next to the wife's legal representative in Court and they tend to converse together on a regular basis which gives the impression that the Court has a pre-determined bias against the father in most hearings.
11. I recall a public meeting where a Judge from the Family Court or the Federal Magistrates Court said words to the effect that the originator of a 'Notice to Produce Documents' could not be disadvantaged if the required documents were not produced.
  - a. In my personal experience a Judicial Registrar cancelled my application before the Court when the ex-wife refused to produce the required documents.
  - b. It is my belief that this example is/was part of the inbuilt bias in the Family Court.
12. Since all my home and personal resources were taken away by the Family Court, I have been unable to gain any regular employment.
  - a. I have tried privately to get many positions.
  - b. Centrelink though the CRS have failed to get me any interviews and have been unable to give me any advice as to any reason why I am not able to be employed.



- c. I believe that this has been as a direct result of the Family Court judgment.
13. The secrecy provisions of the Family Law Act ensure that no proper parliamentary or academic scrutiny of the Family Courts can take place in the interests of Justice.
- a. I can understand that children may need to be protected from disadvantage, but see no reason why adults should not be recognised as responsible citizens – rather than the Act protecting them – especially when so many lies are told in the Family Court [and AVO applications] in order to gain monetary or other advantage.
14. In most other jurisdictions the Court has the power to order investigations and collect evidence that is independent of the two parties in a case.
- a. I have been formally told in the family Court that the Court has ‘no powers of investigation’ and ‘no powers of enforcement of orders’.
- 15.
- a. The implication of the statement was that men must obey the rules, orders and judgments but women were exempt.
  - b. It is no wonder that some years ago a Family Court Judge was murdered and another had to have ‘unlisted’ hearings.
16. I believe that the cost of Family Court proceedings is way too high.
- a. The legal fees should be limited to a maximum of 10% of the total assets – in the best interests of the children.
  - b. Preferably – legal representatives should be barred from the hearings.
  - c. Judges should KNOW the relevant law rather than relying on lawyers to tell them.
  - d. There should be no ambiguities or confusion in the Family Law Act.
  - e. Instructions for completing applications and affidavits should be simplified and readily understandable by all members of the community.
  - f. I understand that the initial intention of the Parliament in 1975 was that dress would be informal and parties would represent themselves.
17. I would be happy to provide evidence from the Family Court if I was afforded protection from any prosecution in relation to my submissions.
18. There are many other problems relating to Justice in the Family Court area – one specific

one is the Court's apparent inability to prevent (or even delay) child abduction.

- a. It would be so simple to suspend passports once an application is lodged in the Family Court.
- b. Child abductions are apparently increasing dramatically, but the legal processes to prevent them are not automatic and rely on hearings that may not happen for many months.
- c. Even after the child has been taken out of Australia the processes of initiating a return so that a Family Court matter can continue are long and tedious.
- d. A classic example of mixed jurisdictions where cross-responsibility prevents justice being done.

*Next Steps:*

I would be happy to attend and give further submissions if the Committee was to meet in Sydney.

I could attend in Canberra on a Monday or Tuesday afternoon with sufficient notice.

I suggest that the Committee obtain formal access to my documents from the Family Court and complete an independent analysis of the formal evidence.