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Secretary:

From: Akiva Quinn [REDACTED]
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To: Committee, FCA (REPS)
Subject: Support for Shared Parenting

Committee Secretary
Standing Committee on Family and Community Affairs
Child Custody Arrangements Inquiry
Department of the House of Representatives
Parliament House
Canberra ACT 2600
Australia

Submission in support of shared parenting, the rebuttable presumption of joint custody and changes to the child support formula.

A) Family Law Reforms

The inquiry should resolve to initiate a series of Family Law reforms, including:

- * Require mediation as the first step to resolve custody and other divorce disputes
- * Support shared parenting as the norm to maximise the contact that children have with both parents after separation and divorce.
- * Provide open reporting to ensure accountability for decisions on custody and other family matters by mediators, lawyers and judges.

B) Recommendations

1. Required Mediation - for couples after divorce before any legal action is taken. Move away from the adversarial system and require mediation with non-legal professionals.
2. Shared Parenting - there should be a presumption that children will spend equal time with each parent unless the parents determine otherwise or there are specific grounds presented by either parent during mediation to rebutt this presumption.
3. Objective Guidelines - mediators, lawyers and judges should follow objective guidelines to settle custody or other family disputes so that a consistent standard of socially responsible decisions can be assured. Mediated and judicial outcomes should all be available for scrutiny to ensure accountable and consistent decision.

C) Child Support Formula

The last term of reference is about the fairness of the child support formula.

The child support formula should be based on the needs of the child rather than the payer's ability to pay. Research by the Institute of Family studies indicates that the true cost of raising the average child is around \$110-\$140 per week. There should be a maximum amount per week required from the payer based on inflation-linked empirical data on the real child support costs.

Part of the formula for child support assessment is the payee parents income. Everything the payee earn over around \$34,000 pa is taken into consideration and reduces the child support payable. This is fair and equitable as it reduces the needs of the payee parent for external support.

D) Shared Parenting

Parents are the best people to make decisions about their children. This inquiry should guide federal lawmakers to support parents in doing just this by providing the presumption of shared parenting and mediation services to facilitate the greatest possible number of non-adversarial parenting agreements.

"The greater likelihood of divorced fathers caring for their children is good for families."

Editorial, The Age, 11 March 2003

"Only by recognising and upholding the fundamental rights of children to maintain an equal relationship and opportunity with both their mother and father will society reduce the impact of family breakdown on children of divorce."

Geoffrey Greene, Shared Parenting Council of Australia, June 2003

"Many fathers are marginalised from their children, some by choice, many against their will. Many believe the family law system is stacked against them and many cannot afford the costs, financial and emotional, of continuing litigation. The rates of depression and suicide for fathers post-separation (six times more than those who are married) may be linked to loss of child rearing."

Tony Gee, Family and Child Mediator, The Age, 30 June 2003

E) The Long Shadow of the Law


Parenting agreements and other divorce settlements are most often negotiated in "the shadow of the law". This term is used to indicate that legal advice is generally part of the settlement process and sets the expectations for both parties on what outcomes can realistically be pursued. Australian research has shown that more than 80% of people consult a lawyer while resolving divorce disputes so lawyers remain the "gatekeepers" for child custody, property settlements and other family law matters. If the legal system continues to impose divorce outcomes then marriage contracts will need to set out all the child custody and property arrangements if relationships fail. Right now couples are signing life and financial contracts without knowing the terms.

The Australian system of family law is an example of social engineering, planned social action to affect large-scale changes in society. Social engineering has often exacted terrible human costs and this is no exception. Changing society by human design based on incomplete information and particular social agendas is flawed. Democratic society is founded on a decentralized system of decision-making where individuals evaluate alternatives and enter relationships based on their particular view of the world, needs and aspirations. Open society must allow individuals these freedoms otherwise the legal and social framework imposed on relationships and marriage will cause these institutions to be rejected by the countless individuals that they no longer serve.

The family law system is unpopular because it imposes solutions on individuals, unfair because its ruling are based on out-dated patriarchal values where men are seen as the providers and protectors of women and unjust because decisions made both in and out of court are only selectively available for scrutiny.

Please make every effort to initiate the urgently required Family Law reforms so that the growing tide of social commentary and inquiry submissions do not need to become greater still before the misery caused by the system is ended.

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