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To someone who
Wants to improve
Family rights

House of Representatives Standing Committee on Family and Community Affairs	
Submission No:	1534
Date Received:	24-9-03
Secretary:

Dear Sir or Madam

I would like you to investigate why many children and parents are disadvantaged after a family separation by the Judiciary and the Government systems. My case is an example of the injustice that is occurring daily, and I would like you to act urgently to find a better system.

In my case my ex-wife of 13 years left our family home taking our two children aged 6 and 9. She said this was due to me working long hours. I persuaded her to talk with Relationships SA (and I did to) but after her meeting she instigated legal proceedings for sole custody. I believe Relationships SA advised her to do that, knowing that the legal system was in her favour to obtain full custody of our children.

From that time my wife was legally regarded as Primary care giver by the Family Court/ Legal system and the children could only see me for 2 days each fortnight and half of school holidays. The children were very upset by this, however their wishes and mine were disregarded. I then spent about \$42,000 over two years to get a more equitable outcome for our children and me. I believe the legal assumption that one parent should automatically have the majority of care of children after a marriage breakdown is morally wrong.

My wife refused to accept any mediation. She used legal procedures to avoid any outside guidance or opinion as to what was in the children's best interests. After a year of trying I was allowed to have a family psychologist talk with the children. The report from the family psychologists clearly stated that it was in the children's best interests to spend more time with me. My wife refused to accept this, and it was another year, and another family psychologists report, before the children were allowed to spend more time with me. I believe the Family Court and the adversarial system is far more concerned with legal procedure, and not with "what is in the children's best interests".

It is often stated that only 5% of Family Court cases actually go to trial. This therefore implies the rest are by agreement, but I do not believe that is correct. In my case I accepted a compromise, knowing that to go to trial would have cost a further \$5,000 to \$8,000. I had already borrowed money to pay my legal bills. My barrister told me that it was the best I could hope for. I believe that if the legal system assumed that children deserve to be cared for by two parents after a marriage breakdown, then much of the adversarial aftermath would be avoided. The children would have equal access to both parents.

It is now four years since my wife left. For the last year I have again been involved in the Family Court legal system. My children have asked to spend Sunday night with me so I take them to school on Monday, rather than take them back to my wife on Sunday at 6pm. This is a practical request that they had made when they were 9 and 12. My wife refused to seek mediation, refused the Family Court counsellor's request to talk to our children, and refused to have a further family psychologist report. We finally did have a family psychologist's report and I await the recommendations. I believe the psychologist will produce a more balanced view of what is in the children's best interests.

I originally represented myself in court, but after the Registrar appointed a child representative the procedures became more complicated. The child representative and my wife's solicitor would not talk to me. I had to appoint a solicitor to talk to them. I believe the Family Court is unduly complicated and formal, and is structured to serve the legal profession and its members far more than families.

I have recently had my Child Support figure reassessed and have discussed the issue with one of their representatives. While on previous occasions I have found the staff sympathetic and helpful, this was not the case this time. I have enclosed a letter of complaint that I have sent to them. I believe that while they have rules and procedures they must follow, the way this is done should be clearly explained and unbiased.

My frustration with the Government and Legal system is also that as a working parent I am being forced to support a parent who does not want to work. Meanwhile I have had to confront a system that is supporting one parent that is preventing our children from sharing time with their other parent. I have always worked to support my family, and I will always want to support and guide our children. I should not have to support someone who refuses to financially support themselves or our children. I believe the Child Support Agency has an unfair structure and set of rules, which actively encourages some parents to exploit the other parent.

In conclusion many of the grievances I have experienced, and our children have lived through, could have been avoided if the Government and Legal system assumed an equal shared responsibility for the children after separation. One where both parents had equal custody, and had equal rights. Our children have two parents. It is not morally right for the State to prevent them from having equal access to those parents.

I would like to discuss this further, and look forward to hearing from you.

Yours faithfully

Tony Dyson