



The National Peak Body for
Safety and Protection of
Parents and Children

(NPBSPPC)



23/6/10

Our address:

admin@safety4parentsandkids.org.au

To

ALRC Family Violence Submissions

Sexual Abuse of Children in Family Law Courts

Addressed to: violence@alrc.gov.au

Dear ALRC reforms and submissions,

The National Peak Body for Safety and Protection of Parents and Children makes submission towards the above consultation, in relation to sexual abuse of children who are also caught up in the Family Law Court systems. The June

Edition of the Newsletter will also form part of the public submission for consideration by ALRC, and that particular edition will cover areas of domestic violence, child abuse of vulnerable and voiceless children and parents, specifically women experiencing systems abuse, and the children being left in harmful situations.

Through knowledge and experience gained as an independent organization conducting our own research and surveys, we have collected material in our newsletters, in submissions and comments, in conversations brought to the attention of NPBSPPC. Below please find a summary of our findings from these materials including in the form of proposals and recommendations:

1. In addition to information provided in our previous submission, we highlight that children are being used as political weapons in the Family Court Systems and are abused inside and outside these systems and the industry by the perpetrators, whilst the Professionals enjoy the immunity built into the legislation. Children are the real victims and studies confirm that they suffer lifelong impacts.

2. Children are suffering and struggling to survive unacceptable levels of risk and harm, including sexual abuse the evidence of which is assessed and tested according to very strict guidelines. For example, please note the R&R case, where the High Court ensured that Family Courts not make a positive finding in sexual abuse allegations. We recommend that this case be abolished in the reforms, as there is an increasing number of such cases abusing the family Court Systems. We observe a system with little to no accountability, wherein perpetrators are gaining full access and control of children, and, with Court support or acquiescence, are abusing them and their protective mothers. Evidence has been highlighted by NPBSPPC. Media reporting of a very few these cases like Darcy Freeman's case, and the Tasmanian girl's cases has brought awareness of this problem to the concerned public, although many such cases are not reported due to s121.

3. All studies demonstrate that children are being abused in and through the family court systems. Therefore, it is our strong recommendation that reforms

effectively prevent this abuse, utilizing legislative means proactively rather than reactively.

4. There is evidence that more children and mothers are being harmed through the family court system by organized groups intending to intimidate victims to be silent about abuses endured. The public has been kept in the dark due to the policies of secrecy and suppression of evidence. This is ultimately also costly to the tax payers.

5. Child abuse and domestic violence is a public interest issue and NPBSPPC recommends that these cases are reported and discussed in the context of common law, and that legislation be passed to allow public input. In support of this, we recommend s121 be abolished from the Family Law Act allowing provisions for anonymity of names and other personally sensitive details.

NPBSPPC also recommends the following:

6. That all cases that include a history of allegations of sexual abuse and violence perpetrated by the parent seeking custody be systematically and transparently identified. We recommend the reversal of any policy or practice wherein decisions are made in favour of the abusers gaining custody over the non-abused parent. This recommendation is based on an ethic of preventing lifelong injury--whether emotional, psychological, physical, or sexual--on the children. We recommend that the threshold of certainty in proving the presence of abuse not be set so high as to put children at risk of being placed in abusers' homes. A reasonable standard ought to apply, wherein reporting of abuse is sufficient to warrant reluctance on the part of the court to hand over a child to someone who is alleged to have abused her or him.

7. That all cases with a history of domestic violence against a spouse, child abuse, or other long-term abuse such as a domineering and controlling spouse or parent misusing family courts to gain or regain control, power, and domination over vulnerable women and children are recognized as abusive, dangerous, and warrant careful consideration always erring on the side of protecting the abused.

8. That NPBSPPC be consulted on a regular basis, and funding be made available to mothers' rights groups to assist clients and the general community and hold organized meetings and conferences with at least the same funding, if not more, than has been allocated or awarded to men's and fathers' rights groups.

9. That the reformers pay attention to the WHO document submitted with this submission, and meet all Human Rights Convention criteria agreed upon wherein Australia is a signatory.

10. That the Judicial Officers who show a considerable or repeated lack of insight, compassion, understanding, ability to assess danger and risk, or competence in handling cases of domestic violence and child abuse, be placed under much more scrutiny and supervision by those with demonstrable expertise and sensitivity to those issues. That there be harsher consequences to employees who show such lack of regard and respect for the criteria set forth by the Human Rights Commission, including termination of employment. We recommend that the Judicial complaints procedure be made more easier for the clients to access, complete, report, and find support for filing. NPBSPPC has identified an individual case wherein gross injustice has been repeatedly demonstrated, and has become much more aware of many other adult clients and children being abused through and by these unchecked and unaccountable systems that value secrecy and obstruction over transparency and support for those harmed.

11. That children are not removed from vulnerable and abused Mothers when either the children or the mothers make sexual abuse allegations. NPBSPPC now has knowledge and experience of a pattern taking place following separation whereby a significant number of children complain to their mums that the abuser is licking the children's face; or the abuser is putting their hands in the children's mother's shirts and feeling their breasts; or the abuser is being genitally or sexually inappropriate and frightening. Once the children have complained, it raises high anxiety in the abused mothers, and they then complain to authorities. This is then used by men's and fathers' rights groups as evidence that the mother is interfering with a custody decision or is planting stories in the children's heads. Such groups know that their accusations are effective in creating doubt in the courts as to the honesty and integrity of the mothers. We have identified this pattern: as soon as the mother raises these concerns in the family courts, she is then stigmatized, labeled, and re-victimized. We recommend

that children be removed from homes where custodial fathers use spurious, coercive, manipulative, and controlling measures and methods of discrediting mothers to children and to the courts.

12. NPBSPPC also attaches a separate document, and recommends that the ALRC reforms focus on the necessity and welfare of children being left in the maternal care until age ten; that the child support laws are changed to no longer release abusers from financial responsibilities; that all domestic violence cases are understood to carry the same punishment as in general cases, not less; that mums and children are supported through independent counseling assistance; that children are given knowledgeable compassionate support and the right to access help through resources such as *kidshelpline* as soon as they are entering family court systems.

13. That the judicial officers have a specific guideline and code of conduct to follow like any other public servant; that their personal allegiance to misogynistic, heterosexist, and racist attitudes, characterizations of women and children, and beliefs and behaviors not be allowed in court proceedings; that the clients not suffer retribution by presiding judges if complaints are lodged against them for their misogynistic, heterosexist, or racist bias; that a voting system is built into the reform legislation such as the one that exists in the U.S.A. wherein bad judges who make incompetent, inhumane, and bigoted or culturally biased decisions are voted out of the courts. We note the removal of Judge Lemaku in the USA as a case in point.

In conclusion, NPBSPPC is appalled at the rates and ranges of abuse of women and children in family court systems, by the industry "experts", and family court systems.

Thank you for considering NPBSPPC Submission.

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