

27 April 2010

Committee Secretary
Senate Legal and Constitutional Committees
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Dear Committee Secretary,

Family Law Legislation Amendment (Family Violence and Other Measures) Bill

I have recently published a book about my life and early experience of domestic violence. My two children and I survived but a second family were murdered. I explain in great detail the predicament I would be in today if my life was transposed into today's family law system. While working in the Family Law courts throughout the 2006 changes I concluded very early that my two children and I would now be dead. The book titled Blood Vows, details in Part Four in very simple layman terms the serious problems with the legislation and consequences for children and mostly mothers caught in the web. I was able to read Professor Chisholm's report before my story went to print and the amendments proposed by the Attorney General. It gave me some hope but sadly not enough.

It is vital that further changes be made to the Bill.

Even if a family law court today finds that a father is violent and abusive and the presumption of shared care is rebutted the court MUST consider substantial and significant time. Now what this translates to and what I saw on a daily basis was the worst of parents given two, sometimes three weekends out of four, at least two nights per week and half of all school holidays. This is a parent who has been found to be violent. The reason being is that the meaningful relationship outweighs everything else including any safety issues.

In 2006 when the amendments were introduced the word "culture" was used constantly with regard to the court system. Phillip Ruddock the then Attorney General mentioned it twice in a letter to family law practitioners. I queried the meaning of this word "culture" at the time and a brave soul suggested the government's belief that there was a bias in favour of mothers operating in the courts. We all agreed that it certainly was not operating in Newcastle so it must have been Sydney or Brisbane or Melbourne. I suspect had the question been raised in any of these other registries the answer would have been the same. It was a myth perpetrated by a small but vocal minority. I experienced at close hand what this minority were seeking - nothing less than the abolition of the family law courts and a return of women and children as their property. Putting children's safety before a parent's entitlement to spending time with their children is not a culture - it is surely the human right of a child.

Our core work in the court was and is violence and child abuse. These two issues were NOT the exception as the 2006 amendments treated them. I was so thoroughly disillusioned with our justice system that I began to believe that violence would become a normal part of family relations and treated so in the court. I had to bite my tongue so many times when a Federal Magistrate said "but he does not hurt the children". Children are harmed if they witness violence.

There is no such thing as a primary carer anymore. Both parents are considered equally. I can't stress how unrealistic this theory is. Of course many parents parent their children well - before and after separation but in the early years of life there is often a primary carer of children. These people have no voice in the legislation as it stands today.

The legislation as it stands today is long and complicated. Judicial officers are required to go through a complex calculation process just to make orders about children living with or spending time with an abusive parent. This dreadful hierarchy puts a child's need for a meaningful relationship with both parents before a child's need for love and protection against abuse.

Children should not be relegated to being Objects which they are in the Act and their safety **MUST** come first not second.

I support the broadening of the definition, prioritising family violence, removing the uncooperative parent provision and repealing the costs if false allegations or denials are made.

Conclusion

Sadly, the family law courts assume that the state is protecting our children while the state assumes that the family law system is doing it and children fall through the cracks every day. The family law courts are civil courts without jurisdiction to make criminal findings. Violence is a crime whether in the privacy of a home or anywhere else.

I have addressed all of the above in greater detail in my book and how it relates to my life when I was married to a well respected, highly intelligent doctor who terrorised his family and left a legacy my two grown up children still endure. I will gladly send a copy of my book if requested.

Yours sincerely,

Helen Cummings