

Wednesday, 6 August 2003

House of Representatives Standing Committee on Family and Community Affairs	
Submission No:	1552
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Secretary:	

Attention:

**The House of Representatives Family & Community Affairs
Committee**

Re: Shared Child Custody (Residency) Proposal

My name is [REDACTED] and this is our story! (My 2yr old daughter's and mine)

To begin I would like to tell you a little about the last 2 ½ years of our lives.

I had been in a relationship with a Ugandan fellow for almost 2 years when I learned that I was pregnant. I believed that I had a good relationship with this man for the most part of the relationship. When I announced that I was pregnant, it was a surprise to both of us as I had been told I could not have children. I assumed that my partner would be happy, as he had spoken fondly of wanting to be a father. But this was the beginning of the end of our relationship. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] left the relationship after attempting counselling with him when I was 7 months pregnant.

Despite my own ill feelings toward this man, I did not think it fair for my daughter to be disadvantaged by not allowing her to develop a relationship with her father. It was my moral obligation, and her basic right. I do not know my father, so I am well equipped to understand the loss that a child feels when half their identity is unknown. I invited my daughter's father to be involved in her life if he wished, despite the fact he had expressed he wanted no responsibility for her. The contact was spasmodic, and I asked for no support from him in parenting for our daughter. He would visit on average every 3rd day for about 15minutes at a time on his way to or from work. He lived two streets away. He refused to pay child support and the authorities were not doing a great deal to address that issue. When our daughter was 6months old, his partner informed me that she had been planning with my child's father, to flee to [REDACTED] with my daughter. This was confirmed by a phone call the father made to his sister back in [REDACTED] to see if he could live in her guest-house with his daughter and

partner. With that information I sought family orders immediately for me to have full residency of my daughter, and supervised contact only with her father. The claim was substantiated and the FINAL ORDERS were granted.

From this time on, the father continued to be abusive and harassing. Calling my phone anything up to 7 times per day, and turning up drunk buzzing on my door at 2am in the morning. He NEVER followed the orders in regard to the times and days he was to have contact. Our daughter was very distressed every time he came over, and he took no interest in interacting with her, he was only interested in sleeping, watching t.v or asking me what I was doing. I had to call the police on a few occasions, and they suggested that I insist on supervised contact only in public arenas. He began to threaten that he would take me back to court to get full custody of our daughter and take her away from me if I didn't let him in my home. He said he would be able to change the orders by telling them that I was preventing him from seeing his daughter. As this was not the truth, and I had witnesses, diaries and police reports proving that I maintained the conditions of the orders, I did not believe that he would be successful. After all, I had FINAL ORDERS and there were NO GROUNDS TO SUPPORT A 'SIGNIFICANT CHANGE IN CIRCUMSTANCES'. Don't ask me how, but he was successful in listing the matter for hearing as the FAMILY COURT accepted an affidavit from him, filled from top to bottom with contradictions and absolutely untrue information. That was September last year.

Since then he became more manipulative and violent. I have had the police enact AVO proceedings; his partner has attempted suicide as she wants OUR DAUGHTER (she can't have children); he has neglected to pay the assessed rate of Child Support based on the fact that he can't afford to, as he is paying for flying lessons which costs \$30,000.00 per year (when he is merely chartering planes for his own personal use); he has attempted to rape someone; he has stolen goods from his workplace; he has lied to DIMIA for the second time, and as a result is having his VISA cancelled, though I am told that he may be successful in an appeal if he uses his daughter as leverage for 'Special Consideration'. WHERE IS THE JUSTICE? This man who has come from another country, defied and disregarded all Australian laws and policies, lied under oath, however, because he is careful in not getting caught, and due to the court systems lacking the resources to investigate, and hence, has not received a record for anything serious, he just might be able to win his appeal using his daughter, and then to top it off, he may be considered for shared custody/residency for a child

he clearly does not give a damn about! **How is that in the ‘best interest of the child’?** He lives 2 hours away, has never taken responsibility for our child, he refuses to pay full child support, whilst paying for IVF and chartering planes, drinks and drives to excess, conducts an open relationship, spends his spare time grooming women and in pubs and works shift work. He did not even buy our daughter a birthday present.

I, on the other hand, have a stable job in ‘CHILD PROTECTION’ as a ‘FAMILY SUPPORT WORKER’, and I have worked in welfare for 16 years, I am a well-respected/responsible person in both a personal and professional light. I have my daughter in one of ██████’s leading child-care centre’s 3 days per week. I did not think it fair that she attend day-care for more time than she is with her family, as this is a crucial stage of her young development, & she is my first priority, and she deserves to have equally positive nurturing experiences with both her family and professional child carers. My daughter and I have an incredible bond. She is very advanced for her age and has a captivating personality. Although she knows her father and sees him once per week, she never asks or speaks of him, nor is she distressed if she does not see him, and if anything, she gets irritable and confused when she is with him as he lacks initiative to interact with her, as he is disinterested, and she gets very bored. My daughter and I have routine, and engage in many fun activities together and with others. We attend a ██████ Church every second Sunday (she has contact with her father on the alternate Sunday). It is an honour to be a parent, and I feel privileged to be my daughter’s mother.

What my feelings are on this proposal!

The ‘Family Law Act’, section 68F covers the ‘Best Interest of the Child’, with this being of the most ‘paramount consideration’ when making family orders. All too often you hear of the ‘TRENDS’ in the family courts, how each judge has their own ‘reputation’ of the rulings that they make, and that it all comes down to the basic interpretation of the law by who is representing you. I appreciate that lawyers understand and interpret the LAW differently, and this can determine the way the case is presented; but what I neglect to understand is why there has to be a ‘TREND’, or why an individual ‘Judges’ personality should override the important issue; THE CHILDS BEST INTERESTS!

I see some pretty horrific things in my line of work, but I have pleasure in knowing that I can make a positive difference in peoples lives, by empowering them to make

positive life choices. But I am also constantly mindful that each person, family and case is individual, and it is imperative that I consider that when deciding how I can assist them or what action I must take. It is 'DANGEROUS TO SET TRENDS' when you are dealing with people. When assessing what would be 'Best Practice' to assist each person/family, you need to consider the history i.e Has there been abuse/violence? Where have the children been residing? What has been the involvement/commitment by each parent? Is there any substance abuse? Is there any reason to suspect the child is at risk? What is the relationship between the child and each parent? How has the child been affected by family conflict/abuse? Are there any significant others actively involved with the children? Have there been any charges laid? Has DOCS received any notifications of this family/child? What other services are involved? Among other things.....

I do respect that the 'Family Court' has a large number of families to deal with every day, and that the resources are strained. I am a Christian, just as is our Prime Minister, however to assume that when families breakdown, all is amicable, there is no violence, it is possible to live near to one another, and that it will not be detrimental to children to live in two separate home environments, is simply unrealistic & absurd. Children have the right to have the opportunity to form relationships with each parent and grandparent, however, if there is clear evidence that this may be placing them in an 'unreasonably risky' situation, it is not justified. I am not making the assertion that children should live with their mother, I know some fantastic fathers who are capable of being the primary carer, as are some grandparents. However I believe that unfortunately society has not accommodated sole male parents by way of providing equal family leave entitlements, support services and the like, so even if the proposal of shared parenting did come to fruition, it could not be accommodated due to these issues, among all the others I previously mentioned. This in turn could create an entire other set of societal problems. This in itself may place children at risk as we all know that there is not enough child and after school care.

I do believe that the current 'Family Court' system needs to be amended, however, I think that;

- more focus should be directed at section 68F of the act;
- each case should be treated as individual

- family reports and mediation should be conducted by Psychologists who have extensive experience in child/parent relationships
- more funding should be put toward opening further supervise contact centres (there are currently only two in all of Metro ██████████)
- any prior domestic violence, sexual, physical and psychological should be presented in each hearing
- any DOCS, Police, Counselling/Family Support, Immigration, Psychological reports or Criminal Court, documents should be made available/admissible in the hearing
- paying parents of child support should be pursued more efficiently if they are not paying the assessed rate
- extend the 'Airport Watch List' to an 'All Ports Watch List'. Smaller airports and shipping points are also avenues for removing children from the borders
- all children who have to give evidence of any kind should be able to do so in non-threatening conditions ie, pre-recorded in a safe and supported environment. They should not be made to take the stand at any time

I find it particularly offensive when people swear under oath/on the bible, that they have told the truth, when they have clearly committed perjury.

I believe that I am in a unique position to actually be personally going through the 'Family Court' system, as well as supporting people in my job to get through this very upsetting period in their lives. I am yet to meet a family who is remotely satisfied with the way a ruling in the FC has been made. Family breakdown is never kind to anyone, but lets make a joint venture to ensure that if it gets to family court, that EACH FAMILY/CASE IS BASED ON ITS INDIVIDUAL CIRCUMSTANCES, & THE CHILD'S BEST INTERESTS IS PARAMOUNT' to any final decision. CHILDREN NO LONGER DESERVE TO BE PUT AT RISK simply because we didn't have the resources to investigate any concerns thoroughly.

TELL ME? COULD YOU LOOK YOUR CHILD IN THE EYE & SAY, "SORRY YOU WERE ABUSED HONEY, THE JUDGE SAID THAT YOU HAD TO GO & STAY WITH YOUR MOTHER/FATHER/GRANDPARENTS. I DIDN'T HAVE A CHOICE"?

I trust that you will all consider the facts, and make a fair and just decision. I thank you for the time you have taken to read our story, and I look forward to hearing the final outcome.

██████████ (concerned mother/service provider)