

Men's Rights Agency presentation to the Parliamentary Forum  
arranged by Ken Ticehurst MP held in Canberra on 12<sup>th</sup>  
November, 2002

I'm frequently asked, What's a women doing in a Men's Rights organisation. It's easy to answer when one has an understanding and appreciation that men are an essential part of our lives, and vice versa. We complement each other in so many ways.

There should not be a gender war, but unfortunately the need for Men's Rights Agency has come about as a result of the bias that has escalated beyond all reason against men and boys, affecting all facets of their life. Most of which has occurred because of oppressive affirmative action legislation, the introduction and misuse of domestic violence laws, and family law perceptions that favour maternal preference.

Boys educational disadvantage is just the start of the problem, jobs for men are disappearing, whilst more are created for women, little money is spent on improving men's health, yet men die earlier, the bias even extends to sentencing for criminal offences. Women will undoubtedly receive a lesser sentence for a similar crime.

If we continue to raise our children in an atmosphere where boys' masculinity is suppressed as if it is a disorder, men are told they need to be deconstructed and reconstructed, where girls are told they can do anything without reminders that with rights come responsibilities, our next generations are facing a bleak future, and even greater family dysfunction. Not the best outcome for our sons and daughters I would suggest.

David Thomas author of Not Guilty in Defence of Men wondered why  
**"..... a dominant class legislates its own downfall with quite as much thoroughness as the parliaments of the western world, filled as they are with men passing equal opportunities legislation in favour of women, ".**  
(David Thomas, "Not Guilty- In defence of the Modern Man", Weiden & Nicolson, London, 1993, page 63.)

Nearly nine years ago when MRA started there were 34 government funded groups for women, offering legal, financial, accommodation, and general support services. We saw a need for a men's service that would provide avenues to access information and support through a national network of solicitors, counsellors, accountants and self help activities including an emergency accommodation scheme run through the use of private homes. In addition to being available 24 hours 7 days week we operate a national free call service for emergencies as well. We do not receive government funding.

For the past two years we have won the community service award from the Beenleigh Chamber of Commerce and the Albert and Logan News.

Since day one in 1994 our phones have run hot with calls from fathers desperate to find their children, have contact with their children, rescue their rapidly disintegrating marriage, find ways to cope with the ever increasing child support debts.

A third of our callers are women who are equally concerned their sons, new partner or just a friend should receive fair treatment in the resolution of their separation problems.

The major issues as we see them are:

**Legal Aid :** An unwillingness to grant aid to fathers despite qualifying for aid, Refusals often quote, a conflict of interest when LA has already granted aid to the mother and the amount of money required to secure a judicial outcome is not warranted or your case has little chance of success. Women receive \$2 for every one dollar granted to men. Even if aid is granted it is only given for a mediation conference which takes six to eight weeks to arrange. By this time the status quo with the children has been established and the fathers are so desperate to see their children they will agree to just about anything. Legal Aid mediators have been known to use coercion to reach agreement with the promise that the father will be able to then see his children.

**Domestic Violence Laws:** (State matter) Are open to abuse and misuse by people seeking an advantage in upcoming family court matters. Magistrates across the country have expressed their discomfort in the way DV orders are misused. It is easier to use a DV order to oust a partner than applying for sole use and occupancy of the home through the Family Court. Many fathers find they are ousted from their home without even an opportunity of a hearing. Contacts within the police tell us only 5% of applications are genuine. Men who are victims are largely ignored by the system despite 20% of applications being made by men. Queensland for example does not want this information to be broadcast so they have stopped collecting gender data from the courts.

The National Crime Authority website (new name now) has a bibliography of DV studies, but not one of them is from this list of more than one hundred international studies<sup>1</sup> that show women to be just as abusive and violent in the home.

### **DNA testing**

Before moving onto Family court issues I wish to highlight a forthcoming hot topic that is soon to reach your ears. The Chief Justice of the Family court is seeking to prevent putative fathers from conducting DNA tests that require only a hair or saliva sample from the child and the father. The mother's sample is not required.

Nicholson advocates retaining the current method ie applying to the court for permission to undertake a DNA test if the mother is not a willing participant. The subsequent test has to be performed by a NATA approved testing

organisation. Nice work if you can get it! If it were any other forum the ACCC would probably allege restrictive trade practice.

It should be mentioned that not all applications for a DNA test are approved by court.

At the very least it would seem that modern day technology has overtaken the Family Court rules and the Court now wishes to keep tight control to prevent fathers and children from knowing if they are related. The child's interest is best served by knowing who is their real father. Conducting the DNA sampling without the child being alerted to the test avoids distress in the event they are shown to be natural progeny.

### **Family Law and Family Court:**

The family law system is not working and is unashamedly biased against perfectly good fathers and less frequently, mothers. Our system of family law pits one parent against another in adversarial combat. The prize, the children, and the majority of the assets.

Based on the idea that the best interest of the child is paramount, the court makes many decisions to remove a child from their father's care and protection in favour of a maternal preference.

Fathers emerge from the Family Court being ordered to see their children only 26 times a year, ordered to sign over up to 70 or 80% of the family assets to the mother who retains the day to day care of the children. If a man told you this is how he had been treated by the court one would think he must have been an awful husband and father to be punished so. And yet, courts operate under the principle of 'no fault' divorce. If one takes removal of children and loss of assets as a sign of punishment, fault has not been removed, just transferred to the father in most cases.

The principle of no-fault, whilst written into law, seems to be neither acceptable nor workable. It is not in our human psyche to 'forgive and forget' so readily and neither should it be. It breeds bad behaviour and sends a clear message to people that they can do anything they want and can trample on other people's rights, with impunity. And when justice is not seen to be done it erodes our confidence in the system that is in place.

Some states in America have reintroduced the concept of fault or perhaps a better description may be "accepting responsibility" for one's behaviour and expecting sanctions for bad behaviour, by introducing 'covenant marriages'. The UK parliament has recently abandoned no-fault divorce declaring it unworkable.

However I fail to see why we believe a court can be warranted in removing perfectly adequate parents, either mother or father from their children's lives. If there is irrefutable proof of child abuse then that is a different matter and one that should be dealt with in all seriousness by the court.

It is hardly surprising, the current Family Court decisions that severely restrict a father's contact with his child, result in 50 % of children being totally estranged from their father within two years or seeing him less than 6 times a year<sup>2</sup>.

Have you ever questioned why does a perfectly good husband and father after separation/divorce apparently turn into a sex craved monster – raping his wife and unable to keep his hands off his children. It doesn't sound logical does it, but allegations of that nature are frequently used in family court to prevent contact with his children. A father is definitely on the back foot as soon as he steps into the FC and the sad part about this is, the court is only too willing to accept the lies put forward by the accuser and her solicitor without any penalty being incurred when the lies are disproved.

If the Australian people knew the full extent of the unfair treatment dished out to loving, caring parents and their children on a daily basis they would be horrified, but this treatment will not be uncovered until s121 is repealed. The secrecy clause just cloaks the abuse against the family that is allowed to flourish in the Family Court on a daily basis.

After an appearance in family court, fathers repeatedly tell me they feel as if they are being treated like criminals.

They want to know, why is the burden of proof placed so completely on fathers? Why is the evidence of Mothers' more likely than the fathers' to be accepted as fact by the court? Why are fathers frequently refused the right to examine and cross examine witnesses or reports upon which the court relies? Why do judicial officers lead witnesses even to the point of declaring to mothers what they must say and then recording such as the mother's utterances? Why are fathers, even respondent fathers, so frequently threatened with meeting costs for all parties to litigation if they appeal a faulty decision? Why are judicial officers more likely to heckle and interrupt a father's cross examination than a mother's? Why is a father's rebuttal evidence frequently disallowed as opposed to the mother's?

It is such an uphill battle to gain fathers residency or more than minimal contact that not many solicitors are willing to try or even offer advice to try. Yet it can be done. Solicitors who represent MRA people report considerable success in ensuring that fathers can and do remain in their children's lives. But there is a certain amount of courage needed to take on the FC system that dictates a father's role is nothing more than a money provider and occasional visitor. The solicitors are subjected to ongoing threats and told frequently to watch their backs. So strong is the anti male agenda within our family court system and its extended environs that many solicitors are unwilling to show visible support for fathers, even though in private they agree fathers are being discriminated against to the detriment of the child's welfare..

It is a well known fact that fathers present the least risk to their children, Mother's boyfriends, stepfathers and other siblings are far more dangerous.

Once again though since 1995 the statistics showing who commits abuse have been diffused by lumping together all male abusers with no distinction made between fathers, boyfriends, step parent, other family members or strangers.

Bettina Arndt noted that “it hasn't helped that so many professionals remain wilfully ignorant of the statistical realities. International research now shows that less than 1 per cent of children are sexually abused by their fathers. So it is shocking that a recent survey commissioned by the Department of Family and Community Services showed 35 per cent of female health, education and welfare professionals believe up to 24 per cent of fathers abuse their children.”<sup>3</sup>

These are the people who are closely involved in recommending whether a father can see his children at all. We are concerned that some of these people, and some in the Family Court are more interested in promoting alternative lifestyles and we question their ability to deliver a decision that shows an understanding of the needs of heterosexual families. A person's sexuality is their choice, but when there could be a conflict of interest in what is a very personalised decision making situation then we feel extra care needs to be taken when assessing the suitability of a candidate.

Questions need to be asked as to what is in the ‘best interests of children’. Maybe the simple answer is their family and all that means, whether separated or not.

Canadian social scientist K.C. Wilson suggests, in his book *Co-parenting for Everyone*<sup>4</sup>, that children have only two rights. His suggestion does not diminish the protection of children as you will see:

1: The same right as any member of society to freedom from abuse and exploitation. This does not require new laws, but applying those we have. You often hear, “Children are our future”. Not true. They are part of society now and deserve that consideration.

2. The right to its entire family. The right to the advocacy and care and nurturing of both its parents equally, and through them the parent's families. Why should the parent's marital status have anything to do with this?

Wilson's continuing argument confirms he believes that “the divorce is only that of the parents and it should never be divorce for the children. Any attempt by a third party to raise the children's needs during a divorce is an attempt to use the children to impose their own values: to assume parental authority for themselves. The only thing to be settled is, the issues between the parents, not regarding care of the children. By not involving children's issues and concentrating on settling the parents' needs, leaves them to return to their normal parenting as swiftly as possible.”

With this in mind, Wilson asks, “If we were not managing their parenting before divorce what makes you have to now?” An interesting question, and one that leads into a solution that would include children spending equal time with both parents wherever possible. A rebuttal presumption of Equal Parenting.

In a number of USA states, where they have adopted a shared and equal parenting starting-point, the divorce rate has reduced considerably<sup>5</sup>. Bettina Arndt once posed the question that if the apparent benefits of sole residency were not automatically available, would mothers be so willing to divorce and it is mostly mothers who make that decision.

Under the current regime, children are failing badly. The Minister for Employment Tony Abbott, recently noted that two parents are better than one; that 10% of children from intact families have mental health problems compared to about 20 per cent from single parent or blended families – and the incidence of child abuse and neglect is about eight to ten times higher in blended and single parent families than intact ones<sup>6</sup>.

There are other statistics that should concern this gathering.

(1,137, 612) One million 137 thousand, six hundred and twelve divorces have taken place since the introduction of no fault divorce in 1976. That’s over 2.27 million parents and 2.16 million child of divorce<sup>7</sup>, not forgetting the grandparents. It is likely that some 9 million people have had their lives or the lives of their loved ones shattered by divorce and separation over the past 2 and a half decades.

Marriage rates are declining, our birth rate is dropping, Most attention has been directed towards paid maternity leave as a solution. Few have recognised, perhaps, young men are no longer willing to risk creating a family when nearly 50% of them, going by current divorce rates, stand to lose their children and the vast majority of the family assets.

Not only will they lose contact with their children, CSA will ensure they pay the maximum dollar in child support as if they are the only party responsible for financial support. An amount guaranteed to make any woman think twice before entering into a relationship with a man who has already fathered children. Second families struggle to come to terms with the inequity of the CS scheme that makes little attempt to recognise the children of the second family.

One father worked out that his wife would have to earn \$72,000 to match the amount she now collects from Centrelink and the child support paid by him<sup>8</sup>. An amount she is unlikely to achieve in the workforce – as you can she is better off not working.

Current policy where the government becomes the defacto husband and father encourages separation and unemployment for the mother. Often

mothers who were working when in the marriage, decide to stop working and become reliant on government support and child support payments which can be excessive.

The working father on the other hand, is faced with a difficult choice when he realises that he is unable to pay for his children, support a home for himself and perhaps a new partner from his pay packet. In our estimation, it takes about two years for the credit card and other financial resources to dry up, leaving the father with crippling repayments. Many employers are by this stage, sick of making allowances for the father whose mind is not on the job or who needs to take too much time off for court hearings when trying to see his children or answer false allegations.

The current state of CSA is abysmal. 39% of payers are unemployed or low income earners. That represents 76% of the adult male unemployed. It is estimated that it costs the government \$2.80 in unemployment benefits and lost taxation returns to collect every dollar<sup>9</sup>. The weekly amount paid to a child has reduced from \$48.64, CPI index from \$35.35 in 1995<sup>10</sup> to just under \$26.50 today.<sup>11</sup>

Child support is doing its best to improve its performance by questionably, deeming incomes for almost every parent who mistakenly applies for a Review – the process that was introduced to provide an easy, inexpensive avenue to change the formula when necessary. It's certainly not inexpensive - it can cost a payer a great deal more than the cost of a court hearing when a review officer makes a determination that the payer has an ability to pay more, based on their capacity to earn. This happens frequently when the Review Officer uses a previously higher income to change the amount a payer must pay. Imagine earning \$35,000 yet being ordered to pay on an old income from better times of \$60,000.

The Child Support Agency has deliberately perverted the original intention of Parliament. Payment was always meant to be based on a **capacity to pay**<sup>12</sup>, not a **capacity to earn**, but when the Review process legislation was put into place instead of writing a new set of rules by which ROs should make their decisions they allowed them to use the rules set down for the judiciary<sup>13</sup>. A judge can deal with **capacity to earn** and does so when a person is rich in assets, but not showing comparable income, A RO has no ability, nor is there any requirement to investigate thoroughly the circumstances of the payer and payee. They take a simplistic view that if a person earned more in previous years or if they resign from a job and take a lower paying job they have a capacity to earn the higher income. This amounts to peonage –

**INVOLUNTARY SERVITUDE & PEONAGE** - a condition of compulsory service or labor performed by one person, against his will, for the benefit of another person due to force, threats, intimidation or other similar means of coercion and compulsion directed against him.

CSA actions collection via a series of threats followed by court recovery action when they will force the sale of the payer's home if they have no money left to satisfy the debt.

The formula is flawed. It was rushed through a consultation process and introduced to Parliament in just 7 weeks. Even Senator Vanstone is on record complaining about the limited print run and the lack of time to respond<sup>14</sup>.

The government of the day paid \$20,000 to an American, Irwin Garfinkel<sup>15</sup> who promoted the Wisconsin version of children support which was designed for low income families –those earning around the \$20K mark. Having decided on a flat percentage formula, they then proceeded to apply this to all income levels and all ages.

Not logical I'm afraid. Any mathematician will tell you that the higher the income the less of a percentage of that income is spent on an individual item including in this case, the children. Wealthier parents may well spend more on their children, but not 5 times more.

However, the formula working papers have gone missing and CSA can give no satisfactory explanation for the formula construction.

Professor Peter Saunders recently said at a conference of social policy research centres in Sydney 1999 that "If I were a baby waiting to be born, I'd consider myself best off if I were born to two parents married to each other." What could have been so awful about that statement that caused a sizeable part of the audience to hiss.<sup>16</sup>

If this audience comprises the kinds of people who are driving our social policy agenda against two parent families then I think we are entitled to demand that our politicians seek other opinions.

But nobody listens to men's groups and people such as the Chief Justice of the Family Court Alastair Nicholson goes further, by actively attacking them at any given opportunity. He has never been known to say a good word about fathers or their supporters.

Men's Groups are effectively silenced by non inclusion, by that I mean they are not invited to attend the many conferences that are held dealing with men's, children and family issues. They cannot afford to attend, even if they were invited, because they do not receive government funding.

If they could attend they would be shocked as I was to discover the anti male attitude of many of the participants. A near revolution occurred at the first Men and Relationship conference held in Canberra in 1998, when Dawson Ruhl, who is now the Principal Mediator at the National Support Office of the Family Court of Australia was asked the question "Is there any room in your social justice policy to provide services for men and their children who are victims of domestic violence?" His answer



**"Don't worry - I've taken care of all three [men who are victims]!"**

Ruhl who has spent much of his previous working life in the domestic violence industry has little regard for the pain of men's suffering, yet he is now in a position to influence the outcome of many family law cases.

The second Men and Relationships conference, held in Sydney in 2000 was an even greater fiasco. Organised and controlled by the Office for the Status of Women and the NSW equivalent, the conference was kept secret by the organiser Gerry Orkin, who worked for Dept of Families and Community Services . He refused to respond to requests for details and inclusion as a speaker until the program was complete and it was too late to change.

Even the Family Law Pathway's initiative failed to invite a representative from a men's group, yet two women's groups were represented

Public opinion is clamouring for change to a system that encourages close to a 50 per cent marriage failure rate; encourages the alienation of fathers, so that within 2 years 50 per cent of children will not see their fathers and that sees 24 men commit suicide each and every week as a result of relationship breakdown<sup>17</sup>.

I believe public opinion has reached a stage when anything less than a change to family law to install a rebuttal presumption of shared and equal parenting and a total rethink on CSA to ensure both parents contribute to a fair and adequate level of support for their children, based on the actual cost of raising children will be unacceptable

It might be worth remembering the Coalition regained government, on the back of a 12% swing in male voters. For the first time in Australian electoral history, men who were sick of Labour family policies changed their vote in the hope the Coalition would restore their right to a family life. So far we are still waiting, but this gathering is the first sign that you are prepared to listen to our concerns. For that we thank you and Ken Ticehurst for his efforts in bringing us all together.

I carry on my shoulders the hopes of thousands of fathers, second wives, grandparents, and their children who are begging you to change the system to acknowledge the importance of fathers in their children's lives. I wish I could deliver an oratory commensurate to the needs of those who have placed their trust in me. I am not that skilled, but I do hope that some of what I have said will encourage you to look once again at the problems of fatherlessness. There is no greater disaster facing our society.

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