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The Chairman  
 Committee of Enquiry into Child Custody

I am a single parent with two beautiful children who has spent far too much time in the Family Court and the High Court. Details of my case can be found on the Austlii website and in the High Court transcripts which are available on the High Court website (Flanagan v Handcock) so I won't go into them here. The current Family Court systems has some flaws due to the length and expense of the process, however, I feel that the current system regarding custody is infinitely preferable to a system of automatic 50/50 custody.

Children go through enough trauma when their parents separate without being treated as though they are an asset (or liability) of the relationship to which each parent is automatically entitled to a share just as in a property settlement. Children need to have some form of stability and I fail to see how that stability can be achieved when they are shunted from one parent to another on a 50/50 basis. They would not have a place that was "Home", they would have 2 places where they would stay on a part time basis. I know that my children love their father and mostly enjoy their time with him, however, they are always pleased to come home.

Having children is a privilege, not a right, and it is our duty as a parent to provide our children with the stability, nourishment, guidance and protection to grow into responsible adults. I agree that children have a right to know and spend time with both of their parents in the case of separation, however, children also need a base, a home, and this can only be achieved by having one parent as the main carer.

The current system of hearings, counselling and Family Reports, puts the emphasis on the best interests of the children. How can the best interest of the children be achieved if there is automatic 50/50 custody? What happens in cases where there is child abuse or domestic violence by one of the parents and the other parent escapes the relationship for safety reasons? Should 50/50 custody be given to the violent parent? I would hope not, but under the presumption of automatic 50/50 custody, children would be automatically returned to dangerous situation just because the violent parent would have a right to that custody when probably they should only have supervised access. The length of the legal process would mean that children would be placed in that dangerous situation for longer than they should be. A person who is intimidated or threatened by an abusive partner would be less inclined to begin the legal process for fear of the threat of danger to themselves or their children. In other cases, an intimidated parent may be less inclined to leave an abusive or violent relationship because automatic 50/50 custody in cases of separation would mean that the abusive partner would have automatic 50/50 unsupervised custody of the children.

It is unusual for ex-partners to live in close proximity to each other. A 50/50 custody situation is completely unworkable where the parents live some distance from each other. What about the children's schooling? Children can't attend 2 different schools on a 50/50 basis, nor can they be expected to spend a lot of time travelling between parents and their school. Attending school is tiring enough without having to spend hours travelling each day just to get to school from one parent's house. As children get older they develop social and sporting associations. It is hard enough to balance and maintain participation in these activities when children are away every second weekend, without them being away 50% of the time.

In an ideal world, both parents would put the children first, above what they consider to be their "right" to 50% of their children. The Family Court has a difficult role and does its best where there is a lot of anger, anguish, bitterness and sadness. By consider the legislating of automatic 50/50 custody, the Government is trying to play Solomon. The scenario of Solomon cutting a child in half in order to give each competing parent an equal share didn't work in biblical times and it still wont work. Why should the perceived right of parents to 50 % ownership of their children take precedence over the best interest of the children? Automatic 50/50 custody is a dangerous situation. It would affect the stability of a child's environment and could lead to a situation where a child does not quite fit into either household as they are slanted between residences, particularly where both parents commence new relationships.

I feel that 50/50 custody could only work where both parents get on well together, live close enough so that their children can attend the one school and be able to maintain contact with their friends. Both parents would need to be able to put the needs and best interest of their children above their own rights...and they all lived happily ever after..... Just like in the fairytales.

**Please consider what is in the best interest of the children, not just the rights of the parents, during your enquiry process. Being a parent does not automatically entitle you 50% ownership of your children.**

Yours faithfully



Narelle Handcock