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Submission
Childrens Rights - National Consultation

1. Reports of harm to children made by children and adults to child protection departments being ignored and not investigated when there are family court orders.

Cluster 3 General Principles

Article 3; best interests of the child

Article 12; respect for the views of the child

Cluster 5 Violence against Children

Article 19 abuse and neglect

Article 34 sexual exploitation and sexual abuse

It is abuse of children and childrens fundamental human rights when abuse reports to the department of child protection are ignored because there are family court orders in place.

Family court orders should not prevent abuse reports from being fully investigated as they do not indicate that harm has been 'authorised' by the family court or that the custodial parent is 'cleared' from casuing reports. It is unethical that reports are ignored.

Why is this happening? This problem needs to be addressed to better protect children from abuse. Family courts are notoriously guilty of making inappropriate parenting orders and custody and residency orders which are not in the best interests of the child and do not aim to protect children from abuse.

In the situation where a child is being abused by their current custodial parent, technically that child no longer has a parent willing or able to protect them and it is therefore negligence of child protection departments not to investigate reports of abuse and harm. This fact may be evidence of corruption in the child protection system.

Child protection departments are the only agency that can protect children from harm in between family court proceedings and orders being made. Police generally refuse to investigate unless there is a court order to do so. This scenario is creating many problems as parents try to act lawfully in their childs best interests to protect their children from harm.

By failing to investigate abuse reports, powerless parents may become involved in crime or domestic violence with the abusing parents as they try to help their children. Failure to investigate child abuse reports, is likely a major cause of domestic violence in

our community.

Reports of abuse and harm of children need to be treated seriously, and not ignored. Reports of harm of children need to be investigated appropriately particularly those made by children themselves in observance with the right of children to be heard. Reports made by children during family law court cases are often ignored and not investigated. This can lead to children being harmed or murdered by their abusers or suffering long term social impacts including self-harming, delinquency and suicide. Failing to investigate reports of harm is not acceptable.

If a child is being harmed by its custodial parent/parents, child protection departments should automatically have statutory power to remove the child regardless of family law court proceedings or family court orders.

Persons making reports need to sign declarations and provide their evidence. Standards of evidence of harm need to be decreased to enable child protection departments to investigate situations and assist children more easily. Children need to be able to make abuse reports to family court matters which decide their custody arrangements directly, without the 'interpretation bias' made by ICL's and family report writers.

2. There should be statutory protection of childrens critical care relationship with their mother and to less extent, their father and for parents who have provided disability supports to children.

Cluster 6 Family environment and alternative care

Article 5 parenting environment consistent with evolving capacity of the child

Article 9 separation from parents

Article 20 children deprived of family environment

Cluster 7 Disability basic health care and welfare

Article 24 Primary health care

Cluster 3 General Principles

Article 3; best interests of the child

Article 12; respect for the views of the child

Parents who have had sole carer role in the child's early years, including providing early intervention from autism are critical carers for the child and / or for the child's disability care and development and their relationship should be protected through legislation (eg. NDIS, Child Protection Act, Family Law Act) as a recognised critical care relationship. Suitable recognition in the Family Law Act would include amendments which enable family court orders to be re-opened "easily".

Children's early years from birth to age 5 are critical years for their development and their social and intellectual sense of self. Research suggests that learning patterns during this time are critical to all further learning and development in adulthood. Unless the mother and child relationship is problematic, it is detrimental and damaging to children to disrupt this relationship. Children need continued constant interactions with their primary care giver / mother. Research suggests it is highly detrimental and damaging to deprive children of their relationship with their mother before age 5 and it is damaging to continue

maternal deprivation for an extended period of time.

The Biological Importance of the Mother and Child Relationship

Children are nurtured by their mother firstly in the womb and rely on them for life. They have an intimate connection during gestation relying on their connection via the placenta to grow, which is located within the mother's body. A child gains various products it requires when born a vaginal birth and these are different to products it receives from cesarean birth. From conception right throughout pregnancy and at birth the mother's body produces hormones especially for the child to grow and survive and for the mother to provide for that survival. Mother's are naturally and instinctively focused on the needs of their child and this is a specific biological adaptation found in all mammals.

Research shows that physical contact between the mother and child immediately after birth prevents infant death and can also miraculously recover a sick child or restore it's body from failing after birth. Biologically speaking the relationship between a child and it's mother is unique and exclusive to the child and it's mother and a father cannot replace the mother in this role.

Breastfeeding the newborn, which can only be performed by the mother, provides needed products for development of the babies stomach and immune system. Breastfeeding a baby is recommended for at least it's first 2 months for these reasons. This is a unique biological adaptation which allows a child to thrive outside of the womb so as to reduce gestation time. During this period the mother is also uniquely effected by hormones enabling production of breastmilk and hormones which effect her focus and motivation enabling her to attend to the child and its care sufficiently. Breast milk is made specifically for the child by the mother's body as a biological process and research suggests the percentage fat and other contents of breastmilk is specific for the needs of the particular child and made differently depending on the sex of the child.

This means that the child and the mother have a unique relationship which is critical for the child's survival and it should not be interrupted else it will effect the survivorship of the child. And that a father or any other person, can not replace the child's mother in this role.

Psychologically speaking as a child grows up, being in constant contact with it's mother is reassuring for both the child and the mother since there is a permanent connection with the mother from being nurtured by this person while they were in their womb and as an infant from being breastfed and provided sustance to grow, and from being cared for in general. The mother and child relationship is a constant interaction in which essential communication occurs allowing a child to build a sense of identity, worth and trust with its mother.

A child will always have respect and care for it's mother as will the mother always have respect for and care for the child unless there is something wrong with the mother's mind.

The mother and child relationship therefore is highly significant and important to every child and should not be disrupted unless it is urgently required to protect the child's life. The mother is more important to the safety, security and emotional well-being and development of the child in it's early years than the father.

In the long term a child developing into an adult requires a relationship with it's mother to maintain it's sense of security and emotional well-being. The relationship with the mother provides the child feelings of being loved and

nurtured unconditionally, and maintains the feeling of safety which is biologically unique with its mother, and occurs simply from having contact, proximity and interactions.

This contact, which is unique between a child and its mother, enables neurological pathways (nerve systems originating in the brain) to activate from sensory contact with the mother including olfactory (smell), visual (seeing), tactile (touch), auditory (hearing). Some sensory and resilience building experiences can only be activated through interactions with the mother such as those from overcoming trauma and illness. No other person can activate the same feelings and neurological responses, including feelings of calm, that a mother can with its own child.

In my professional opinion, the mother and child relationship therefore should be seen as critical to a child's successful development into an adult and all interference with this relationship can be seen as detrimental even damaging to the child and a form of child abuse.

Being deprived a relationship which is critical to a child's development which is the "mother and child relationship" is shown to have damaging effects on a child's sense of self, emotional outlook and their personal welfare and development. Research shows that the damage caused to a child by maternal deprivation or loss is severe and often irreversible when it occurs before age 2, severe when it occurs between age 2-5 (Bolby, 1956), and significant and highly damaging if it occurs between age 5-17 (Bifulco et al.1992).



For these reasons the mother / child relationship needs to be protected to ensure the safe emotional and psychological welfare of children in the short term and long term.

It is a human right of children with a disability to be cared for by their parents. Family courts and child protection departments should comply with the UN Convention on the rights of people with disabilities Article 23 Respect for home and family, part 4:

“in no case shall a child be separated from its parents on the basis of disability of either the child or one or both of the parents”.

We do not currently observe these rights for all children.

A child with a disability has care from its mother as one of its basic human rights. Mothers of children with disabilities create unique care relationships which should be preserved unless they are abusive.

Children in general need statutory protection in family law court cases, from being separated from either of their parents, without a significant reason such as actual violence towards them.

Children's right to live with and be cared for by both parents is a fundamental human right of children which we fail to acknowledge in family court. Family court practice of separating children from their parents without evidence of actual child abuse, must be changed.

Children who have been taken from their parents need extra support to control adverse long term impacts on them from the separation.

Reassessment of custody arrangements should be able to be easily initiated by parents or the department of child safety and be a mandatory review process every 6 months while the parents are in a parenting dispute or every 2 years if custody is not being shared. In doing this we would be observing the human rights of children to be cared for by their parents. All children need a failsafe method to return parents who have been taken from them by family court orders, ie. Family court orders should be more easily re-opened.

Children being deprived of their family environment due to having been put into foster care are abused children and all steps should be taken to return these children to their parents care as soon as possible.

3. Need for respectful relationships subjects in schools to transform generational attitudes to relationships and prevent domestic violence and bullying

Cluster 8 Education Leisure and Cultural issues
Article 28 Right to education

Cluster 3 General Principles
Article 3; best interests of the child
Article 12; respect for the views of the child

Cluster 5 Violence against Children
Article 19 abuse and neglect
Article 34 sexual exploitation and sexual abuse

Future education curriculum should include relationships education subjects for communication and respectful behaviour skills training as a long range domestic violence prevention measure for the entire community.

Relationships education subjects and communication skills training should be a continuous part of school and high school education including legal and human rights awareness.

All children should be included in decision making about which school they attend, their school curriculum as well as being encouraged on recognition of their giftedness.

Peer support programs need to become a permanent part of schools and high school education for mentoring guidance and mental illness / suicide and drug abuse prevention.

Children should be encouraged to discuss their relationships and relationship goals in peer support groups and curricular groups and to openly consider plans for their lifetime relationship goals during school. Children who would like to abstain from sexual relationships until they are married, should not be bullied or harassed and school policies needs to include these issues. Children need to be included in the decision to have a guardasil vaccination or not. Mandatory guardasil vaccination of children should be abolished.

4. Indigenous Children maltreatment in the juvenile justice system

Cluster 9 Special protection measures

Article 30 Children of minority or indigenous groups

Cluster 3 General Principles

Article 3; best interests of the child

Article 12; respect for the views of the child

Cluster 5 Violence against Children

Article 19 abuse and neglect

Much greater focus on the care and welfare of indigenous children should be made as well as the observance of their human rights as children and providing suitable support. As such a review of the treatment of indigenous children in the juvenile justice system is urgently needed. The care of indigenous children could form the topic of a national inquiry or commission on its own.

There is a current over-representation of indigenous children in the juvenile justice system as well as very high incarceration rates and child suicides.

The practices of the juvenile justice system effecting indigenous children is an urgent issue as is the age of criminal responsibility policy which should be changed.

5. Need for reforms in child protection departments

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Reforms required for improvement of child protection services:

1. review of the child protection legislation in our country
2. establishment of a federal child protection agency rather than individual state agencies

3. transparent provision of services, subject to reviews and complaints
4. mandatory investigation of all reports of child abuse and harm
5. coordination of support services with the department to prevent children being taken from parents
6. coordination of family support services to struggling families
7. observance of human rights, the rights of children and their parents with a disability and the general human rights of children