



National Mens
Council of Ireland

National Men's Council of Ireland

***Preliminary Report
on the
Family and Marriage
in Ireland in 2003***

24 December 2003

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TODAY THE MARRIED FAMILY IS UNDER UNPRECEDENTED ATTACK

One of the prime activities of the National Men's Council of Ireland is to monitor, on behalf of parents, how legislation and social policy impacts on the family and marriage and in particular for children.

It is generally presumed, both at home and abroad that Irish society affords a high level of protection for parental rights and for the welfare of children.

The objective of this report has been to examine this issue in depth to ascertain the validity of this belief.

Family law and social reform of marriage has never formed any part of any political party's manifesto. No-one has been elected to represent the views of their constituents on such a platform. The debates of the Oireachtas show that these social reforms did not originate from a groundswell of demand from the people or even from the political party that formed the government at the time.

They were presented as part of an 'ongoing agenda' that continued from one government to the next irrespective of their politics without declaring who were the framers.

Ireland has traditionally valued marriage as the optimum arrangement for bringing up children through its social conventions and through the protections pledged for its support by the state in Article 41 of the Constitution.

BUNREACTH NA hÉIREANN – CONSTITUTION OF IRELAND

THE FAMILY: ARTICLE 41

1.1° The State recognises the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.

1.2° The State, therefore, guarantees to protect the Family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and the State.

3.1° The State pledges itself to guard with special care the institution of Marriage, on which the Family is founded, and to protect it against attack.

However today the married family is under an unprecedented attack. Mothers and fathers are being pitted against each other in a so-called gender war.

As a consequence children are at their most vulnerable. Unfortunately the evidence points to the fact that it is the State that is not carrying out its Constitutional pledge and is the source of putting our children at greatest risk of exploitation and neglect.

We are not in a position to offer legal advice to anyone but this document is presented with the aspiration that it will allow the people of Ireland and in particular the mothers and fathers of Ireland to see what is really going on and so resist being herded into warring groups.

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WHAT IS MARRIAGE? WHAT IS THE FAMILY?

The Gaelic word for marriage is *Iánamus*, which can be translated fairly accurately as 'a social connection for the purposes of procreation.'

The practice of marriage is the most ancient custom of civilised people.

Evolutionary theory of mankind indicates that there were three distinct phases. The first transition occurred when primates developed communal hunting and gathering techniques. This is recognised as the first sign of a social economy. This early form of human life is denoted as 'hominid'.

Thus the existence of a community economy was not unique to homo sapiens.

The vital transition that distinguishes homo sapiens from hominids and earlier primates is the emergence of a family structure based on the union between an adult male and female for the procreation and upbringing of children.

According to Jürgen Habermas, the German philosopher and sociologist, in "Communication and the Evolution of Society"

The emergence of an economy "is suitable for delimiting the mode of life of the hominids from that of the primates; but it does not capture the specifically human reproduction of life." Rather, it appears now that THE EVOLUTIONARY NOVELTY THAT DISTINGUISHES HOMO SAPIENS IS NOT THE ECONOMY BUT THE FAMILY."

This specifically human family, according to Habermas, is marked by an emergent characteristic that is found nowhere else in evolution.

Not hominids, but humans were the first to break up the social structure ... [where] a familylike relationship existed only between the mother and her young, and between siblings.

Incest between mothers and growing sons was not permitted; there was no corresponding incest barrier between fathers and daughters, because the father role did not exist.

Even hominid societies converted to the basis of social labour did not yet know a family structure.

The novel emergence of the human family, according to Habermas, occurred only as the male was also assigned the role of father and husband. In ways the male and female value spheres had already been differentiated into social labour (hunting) and nurturance of the young. Of the known societies at this stage, an astonishing 97 percent show that pattern of male/female differentiation.

The mode of production of the socially organised hunt created a system problem that was resolved by the familialisation of the male, that is, by the introduction of a kinship system based on exogamy [– the custom compelling man to marry outside his tribe.]

To quote GK Chesterton in 'The Superstition of Divorce',
"it never seems to occur to the king in this fairy tale that the gold crown on his head is a less, and not a more, sacred and settled ornament than the gold ring on the woman's finger. "

The male society of the hunting band became independent of the plant-gathering females and the young, both of whom remained behind during the hunting expeditions.

With this differentiation, linked to the division of labour, there arose a new need for integration, namely, the need for a controlled exchange between the two subsystems.

Only a family system based on marriage and regulated descent permitted the adult male member to link- via the father role-a status in the male system of the hunting band with a status in the female and child system, and thus (1) integrate functions of social labour with functions of nurture of the young, and, moreover, (2) coordinate functions of male hunting with those of female gathering."

Our forefathers enshrined this ancient Common Law wisdom in the Constitution, Bunreacht Na hÉireann in the understanding that the family through marriage was essential for the common good of the people.

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MARRIAGE VERSUS SOCIAL DEGENERACY

The most fundamental rule of civilised societies is the taboo against feral breeding practices and incestuous relationships. For a society to avoid involuntary incest children need to know who their mother and father are and who they are related to.

This taboo is avoided by the practice of marriage whereby the couple practice monogamy and the offspring of the union bear the father's name.

Exogamy – the practice of a man marrying outside of his tribe – ensures a strong and vigorous society.

The consequences of ignoring this is, as all farmers know, that if the bull calf is allowed to mate with its mother or sister the resultant offspring will very likely be deformed and weak and liable to die at birth or in infancy.

For human society the main social consequences of the abandonment of marriage and the ensuing unregulated breeding are:

1. The disappearance of family and tribal or clan identity.
2. The similar disappearance of any rules of inheritance of property and assets.
3. The emergence of a class of isolated individuals deprived of emotional and physical family support structures. This underclass are also excluded from participating in any future exogamous society through no fault of their own.
4. The proliferation of physical and mental deformity and infant mortality through close inbreeding. The gradual weakening of the genetic vibrancy.
5. The separation of sex from procreation combined with universal use of contraception leading to rapidly decreasing birth rates and fatal population replacement rates.
6. The undermining of the moral authority that parents must have to be able to discipline their children.

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THE STATE OF IRELAND

Like many other nations around the world Ireland is being lured by subterfuge into abandoning marriage.

Historically the law of the land existed to strengthen and promote marriage.

For centuries disagreements in marriages were resolved by courts upholding laws which were built upon this principle. Private civil law once served a function of settling disputes and providing reliefs for married persons.

The principle was that the plaintiff who approached the court was in need of relief from the wrongdoings of their spouse. Incredibly, as we show in this report, this basic rule has been reversed by the introduction of feminist legislation which allows women to apply to the court without this basic ground. According to the well-known study by Brinig and Allen (popularly known as “These boots were made for walking”) the overarching reason why a person sues for divorce or separation is not that they are wronged but that they believe they will get custody of the children and all the benefits that ensue.

It was always upheld as an obvious and unquestioned fundamental fact of life. that THE WELFARE OF CHILDREN IS PROVIDED BY THEIR PARENTS.

This is still the position today in Common Law and in the Constitution.

Over the past forty years, in ever increasing fervour, ‘social reforms’ have been enacted, many with duplicitous names like Family Law (Maintenance of Spouses and Children) Act, 1976; Family Law Reform Act 1997, Children Act, 1997; Child Care Act 1991 etc – the purpose of which has been to dismantle the protections that the marriage contract brought to the security of families and children and to the stability and vigour of Irish society.

These ‘social reforms’ removed the traditional and time-honoured protections available to deserted and innocent spouses and set up a new system of anti-family law operating under a veil of secrecy.

The result of this is that the Family Law Courts do not function to resolve disputes but instead enforce legislation based on fanatical feminist ideology which is directed at destroying the institution of marriage and replacing the moral authority of the father with the omniscient state.

Children are being taken, imprisoned and used as hostages by mothers for reward from the state.

Fathers are being raped of their children and thrown into debt-bonded slavery.

Mediation is pointless under these conditions.

And this has all been done by clandestine groups who have never sought and certainly do not have the political or social mandate from the people to do so.

Moreover we can find no evidence that the existing laws which were ‘reformed’ were inadequate and could not have been updated with simple amendments.

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THE REALITY FOR FAMILY MEN IN IRELAND

Our research shows that fathers, trying to protect and provide for their families, are being driven to the depths of despair and even suicide in the absolute knowledge that no legal safeguards are available for them to protect their children.

“Domestic Violence is defined as a pattern of coercive (forceful) behaviour by one member of a family or household or relationship to another to establish and maintain power and control”

Courts Service Family Law Information Bulletin, Vol. 2 Issue 1, Feb 2002

All husbands today live under a threat of violence from their wives’ expressed and real ability to take and possess their children at will and/or to expel the father from his own home.

There is a pattern of women reported as saying “I can take the children away and stop them seeing you if I want”

It is the experience of the vast majority of men who contact us from the affiliated groups around the country that their wives have been encouraged to use the Family Courts as a weapon of violence against them and their children.

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THE LAW

Over centuries of settled Law a set of rules has developed to guide the courts in matters affecting the welfare of children.

There are two positions – 1. The Common Law position and 2, The Jurisdiction of Equity – the Courts of Chancery.

1. The Common Law.

The Common Law position had been identified by Knight Bruce V.C. in *In re Fynn* (1848) 2 De G. & Sm. 457 where he said (at page 474)

“The acknowledged rights of a father with respect to the custody and guardianship of his infant children are conferred by the law, it may be with a view to the performance by him of duties towards the children, and, in a sense, on condition of performing those duties; but there is great difficulty in closely defining them. It is substantially impossible to ascertain or watch over their full performance; nor could a court of justice usefully attempt it.

A man may be in narrow circumstances; he may be negligent, injudicious, and faulty as the father of minors; he may be a person from whom the discreet, the intelligent, and the well-disposed, exercising a private judgment, would wish his children to be, for their sakes and his own, removed; he may be all this without rendering himself liable to judicial interference, and in the main it is for obvious reasons well that it should be so.

Before this jurisdiction can be called into action between them it must be satisfied, not only that it has the means of acting safely and efficiently, but also that the father has so conducted himself, or has shown himself to be a person of such a description, or is placed in such a position, as to render it not merely better for the children, but essential to their safety or to their welfare, in some very serious and important respect, that his rights should be treated as lost or suspended - should be superseded or interfered with. If the word ‘essential’ is too strong an expression, it is not much too strong.”

The Constitution of Ireland, *Bunreacht Na hEireann* enshrines this natural settled principle of law in Article 42.5 when it says that only ...

... in exceptional cases, where the parents for physical or moral reasons fail in their duty towards their children, the State as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child.

the Court must act cautiously ... acting in opposition to the parent only when judiciously satisfied that the welfare of the child requires that the parental right should be suspended or superseded.

The court must not act in opposition, as it were, to the parent unless it is judicially satisfied that it is necessary in the interests of the child, beyond any shadow of doubt, that it should interfere.

2. The Jurisdiction of Equity – the Courts of Chancery.

Whereas as we have seen in Common Law the parent had complete control over the children of the marriage, in the Court of Chancery the absolute power of the father was in some respects subject to control, the King through this court exercising a power as *'parens patriae'* and proceeding on the principle that the legal power of the father was in the nature of a trust which must not be abused. In the Court of Chancery the wishes of the mother in relation to a child were regarded only insofar as they affected the interest and wellbeing of the child.

These rules of equity were stated in the Supreme Court judgement in the *Kindersley* case in 1943 read by O'Byrne J

The principles applicable in the determination of that question have been clearly settled and authoritatively stated by this Court and by various other Courts in this country and in England, and it is only necessary to recapitulate them shortly.

The principles so established appear to be as follows

1. Originally at common law, the father had an absolute right to the custody, control and education of his children of tender years unless he had forfeited such right by certain sorts of misconduct.

2. The foregoing right has been modified from time to time by legislation in favour of the mother and, particularly, by the Guardianship of Infants Act, 1886, which directs that, where the parents' wishes are in conflict, the discretion of the Court is governed by consideration of the welfare of the child, the conduct of the parents and the wishes of the mother as well as those of the father.

3. Prior to the Judicature Act, the Courts of Equity possessed a jurisdiction different from that of the Common Law Courts, and essentially parental, in the exercise of which the main consideration was the welfare of the child, and the Court did what, on consideration of all the circumstances, it was judicially satisfied that a wise parent, acting for the true interests of the child, would or ought to do, even though the natural parent desired and had the common law right to do otherwise and had not been guilty of misconduct.

4. The Judicature Act has imposed on every Court the duty of exercising the jurisdiction of the Courts of Equity.

5. In exercising the jurisdiction to control or to ignore the parental right, the Court must act cautiously, not as if it were a private person acting with regard to his own child

- and acting in opposition to the parent only when judicially satisfied that the welfare of the child requires that the parental right should be suspended or superseded.

At the present day the predominating principle must always be the welfare of the child; but, in applying that principle, the Court must act with circumspection and in accordance with the principles set out at No. 5 above.

it is only in the most exceptional and necessary cases that the courts will interfere with the natural right of the parents in respect of their children.

this is a power which we are vesting in an institution, the High Court, ... Surely that is the right place to leave this discretion and jurisdiction?"

When Ireland became a Republic it replaced its dependency on the authority of the King of England with a Constitution. Its citizens and their children, being no longer subjects of the King, declared fundamental Constitutional Rights which were to be protected by the state.

Article 41.1 elevates the position of the family:-

'The State recognises the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.

Article 42.1 denotes the rights and duties of parents thus;-

The State acknowledges that the primary and natural educator of the child is the Family and guarantees to respect the inalienable right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children.

Article 50.1 provides for the conditions for the continuation of the Rule of Law

*1 Subject to this Constitution and to the extent to which they are **not inconsistent** therewith, the laws in force in Saorstát Éireann immediately prior to the date of the coming into operation of this Constitution shall continue to be of full force and effect until the same or any of them shall have been repealed or amended by enactment of the Oireachtas.*

It is inexplicable how the rules of the King's Court of Chancery, where the king acts as *parens patriae* to his subjects could have been considered to be in any way **consistent** with the Constitution of the new Republic of Ireland.

This obvious inconsistency went unchallenged in the superior courts. In the Kindersley case the judgement states

*"By s.28, sub-s.10 of the Judicature Act (IR) 1877 it is provided that, in questions relating to the custody and education of infants **the rules of equity shall prevail.**"*

Similarly in Frost, 1945 the rules of equity were used and not considered repugnant to the Constitution.

In 1964, when the Guardianship of Infants Act was introduced, these rules were re-enacted as follows:

GUARDIANSHIP OF INFANTS ACT 1964 - SECT 3

Welfare of infant to be paramount.

3.—Where in any proceedings before any court the custody, guardianship or upbringing of an infant, or the administration of any property belonging to or held on trust for an infant, or the application of the income thereof, is in question, the court, in deciding that question, shall regard the welfare of the infant as the first and paramount consideration.

What is even more inexplicable is that that after 27 years of unquestioned adherence to the King of England's rules of equity in the Irish courts, on their re-

there has been a pattern of events surrounding the introduction of most family legislation which has facilitated the government of the day in pushing through their Bills against strong opposition from TDs

The District Court is one of summary jurisdiction fundamentally, which means that decisions are made quickly, promptly and in a hurry and made with a view to getting on with the next business.

It is in many respects, despite the best efforts of its members, the district justices, an intellectual and legal slum

enactment in the Guardianship of Infants Act , the courts immediately questioned their validity under the Constitution.

In the High Court in *In re J., an Infant* [1966] I.R. 295, Mr. Justice Henchy at p.308 stated:-

“Having regard to the inalienable right and duty of parents to provide for the education of their children, and their right in appropriate cases to obtain custody of the children for that purpose, I consider that s.3 must be interpreted in one or other of the following ways:

first, by regarding it as unconstitutional, or, secondly, by reading it in conjunction with Articles 41 and 42 as stating, in effect, that the welfare of the infant in the present case coincides with the parents’ right to custody.”

Also in *G. v. An fiord Uchtala* [1980] I.R. 32, Mr. Justice Walsh, dealing with the provisions of s.3 of the Act of 1964, stated at p.76:-

*“The word ‘paramount’ by itself is not by any means an indication of exclusivity; no doubt if the Oireachtas had intended the welfare of the child to be the sole consideration it would have said so. The use of the word ‘paramount’ certainly indicates that the welfare of the child is to be the superior or the most important consideration, **in so far as it can be, having regard to the law or the provisions of the Constitution applicable to any given case.**”*

From this it can be seen that the Superior Courts in their adjudicating appear to be most ‘uncomfortable’ with the principle that the welfare of the child should be considered superior to the rights and duties of the parents.

“The state cannot supplant the role of the parents, in providing for the infant the rights to be educated conferred on it by Article 42, S. 1, except in exceptional cases” arising from a failure for moral or physical reasons on the part of the parents to provide that education (Article 42, s.5).

*The Act of 1964 must, **if possible**, be given an interpretation consistent with the Constitution: see *East Donegal Co-Operative V. flee Attorney General* [1970] I.R. 317; *McDonald V. fiord na gCon* [1965] 1.R.”*

the District Court is a court of local and limited jurisdiction ... it has no right to make far-reaching decisions about the welfare of a child.

Upper class children ... get a High Court judge

The District Court ... will fail in its duty to the children because it does not have the resources, expertise, time or inclination to do what is necessary in the interests of those children

JURISDICTION OF THE COURTS IN MATTERS CONCERNING THE RIGHTS AND DUTIES OF PARENTS.

In re Frost Infants, 1945 the question arose of the court's jurisdiction over the inalienable and imprescriptible rights and duties of parents, antecedent and superior to all positive law. The response by Sullivan C.J. (Page 28) giving the Supreme Court Judgement was as follows

I cannot accept ... (the) proposition.. that the rights of the parents , or of the surviving parent, are absolute rights, the exercise of which cannot be controlled by the Court. That a child has natural and imprescriptible rights is recognised by the Constitution (Art. 42.5), and if Mr. Ryan's second proposition were accepted, it would follow that the Court would be powerless to protect those rights should they be ignored by the parents. I am satisfied that the Court has jurisdiction to control the exercise of parental rights, but in exercising that jurisdiction it must not act on any principle which is repugnant to the Constitution. Where as in this case the parents could not agree on the particular religion in which their children should be brought up and educated, the children should not be deprived of all religious education."

Later in Tilson Infants, 1950, page 35, Murnaghan J. giving the Supreme Court Judgement referring to Article 42.5 of the Constitution, gives the definitive statement of the state's position regarding their right to interfere in a family's autonomy:

"If a difference between father and mother leads to a situation in which a child is neglected the State, through the Courts, is to endeavour to supply the place of the parents."

This is the basis for the jurisdiction empowering the courts in Section 11 of the Guardianship of Infants Act (1964).

What this means is that the state appears to offer a remedy to parents who are in dispute over a matter concerning their children. Parents who try to avail of this remedy are placed in an adversarial position in the courts.

What they in fact do by this action is to invoke the jurisdiction of the court and empower the state to take on a supervisory role - in effect taking over the custody of the children from both parents.

The issue here is that this process is completely open to abuse.

By encouraging one of the parents, almost always the mother, to apply to the courts on any frivolous matter, with the guarantee that they will in return be awarded control of the children with the ancillary financial remunerations, the state in effect takes custody away from the father and takes over control of the family.

Furthermore a father whose children have been torn from him by their mother finds himself with apparently no other remedy than to go this route himself.

The position appears to be that the Courts have established that they can interfere in our family affairs where:

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By encouraging one of the parents, almost always the mother, to apply to the courts on any frivolous matter, with the guarantee that they will in return be awarded control of the children with the ancillary financial remunerations, the state in effect takes custody away from the father and takes over control of the family.

- (a) both parents are “fit” or unimpeachable, and
- (b) a difference between them leads to a situation where the children are neglected

One must conclude that a Section 11 application is not an appropriate application for a father where a mother has raped him of the children with the wilful intention of depriving those children of his protection, care and education. He can hardly consider his wife, having done this, to still be a fit parent.

But what else can he do? Every route, whether it is via his solicitor, a social worker or the District Court Clerk will advise him to make an inappropriate Section 11 application.

What remedy does the law of Ireland offer to a fit parent against an unfit parent who has forcibly taken his children?

Before 1964 a writ of Habeas Corpus was a common application under such circumstances but this appears to have fallen into disuse probably because the Act of 1964 gave Guardianship **jointly** – ie the state considers the family to be a *unit* – the control and management of which is vested in both parents and that guardians are disallowed apparently by Section 10 of that Act from taking proceedings against the other guardian for the restoration of custody.

In other words when a family becomes dysfunctional in some way because of the selfish or misguided behaviour of one parent, the state simply seizes control and the whole family is punished.

Section 11 is in fact a trap. The District Court, as we shall see acts as the trap-door.

Unscrupulous parents, often obliged by the qualifying conditions of the One-parent family Payment scheme approach the court to make ground-less maintenance applications from which result in *Interim Orders* which accuse an often innocent spouse of failing in their parental duties.

Alternatively a devious legal ploy is set up wherein the mother, having taken possession of the children, makes a pretence of a concern for their welfare and requests that the court **‘regulates’** her husband’s **‘access’** to the children thereby invoking the jurisdiction of the court with the wilful intention of depriving the children of the Protection, Care and Education of their father.

A case can be made that by such conduct the mother has forfeited any parental rights she may have previously held and so a writ of habeas corpus is now applicable.

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THE DISTRICT COURT

During the Dail debate on the guardianship of Infant's Act, 1964 Minister Charles Haughey informed the legislators that special safeguards would be guaranteed to children by their cases under this Act only ever being heard in the High Court and stated,

"The High Court always, down the decades, had a special interest in guardianship matters and by now it has built up a whole series of decisions governing these cases. In case after case the courts have laid down for themselves the criterion that where at all possible the natural right of the parent must be adhered to. That fear of Deputy McQuillan is not real because in the Kindersley case and others, time and again, the principle has been reiterated, that it is only in the most exceptional and necessary cases that the courts will interfere with the natural right of the parents in respect of their children.

Deputies can rest assured that this is a power which we are vesting in an institution, the High Court, which has a traditional responsibility, exercised wisely and well down through the years. Surely that is the right place to leave this discretion and jurisdiction?"

Any inspection of a reported High Court custody case will demonstrate the myriad intricacies and deliberations involved in coming to a judgement or decision. No family case is simple, regardless of the participants backgrounds. There is no possibility that a 'proper' decision can be reached without exercising such thorough circumspection.

However in 1981 the promise that these matters would always be heard in the High Court was revoked. The idea that the District Court could be given jurisdiction under the Guardianship Act was introduced by Gerry Collins, Minister of State at the Department of Justice.

This decision was greeted with vociferous opposition by many TDs who saw the Bill as providing "justice on the cheap". In fact the bill was pushed through on the basis that it "should result in a significant contribution towards the provision of cheaper, speedier and more convenient access to justice"!

Minister Collins stated, ***"I am satisfied that the procedures can and must remain simple, thus preserving the District Court in particular as a forum where disputes can be brought to a speedy and just conclusion, with the minimum of formality and expense. I am also satisfied that the lower courts are fully competent to handle the more substantial issues both of law and of fact which will fall to be dealt with by them as a result of the proposals in this Bill."***

This has not turned out to be true.

Matters relating to the welfare of children are dealt with in a summary fashion, in line with the other business of the District court.

In fact our current Minister of Justice, Michael McDowell argued eloquently that this would happen back in 1988 when debating the merits of the District courts as a

Maintenance and Domestic Violence laws [against the father] are used as legal loopholes that circumvent the parental rights

any father, finding himself bereft of his family, will find no legal remedy in the District Court

An Interim Barring Order takes no regard for the welfare of the children

venue for dealing with children. His points are so well put that they are quoted in full.

Mr. McDowell: "I have thought long and hard about this and have viewed on many occasions what has and has not gone on in the District Court, and what are or are not the training and experience qualifications of district justices. They are in criminal cases confined to exercising summary jurisdiction in limited matter.

The District Court is one of summary jurisdiction fundamentally, which means that decisions are made quickly, promptly and in a hurry and made with a view to getting on with the next business.

That is summary justice and anybody who disagrees with that is deluding himself or herself. To give to a court dealing with offences such as no lights on bicycles or the exact remit of the permits of street traders or the smallest matters such as parking fines — those are some of their more elevated functions — the power of deciding yes or no over matters of huge consequence to a child is indefensible.

Which Deputy will say that he or she knows of a District Court which has time to spend two days deciding the fate of a child? What District Court is organised to allocate two or three days to the decision as to what the future of a child demands? What District Court is organised to receive child psychiatric evidence? What District Court is organised to lay aside the TV licenses and to allocate its judicial brains to deciding what a child needs most of all? We all know well in our hearts that no District Court is organised to do that. It is in many respects, despite the best efforts of its members, the district justices, an intellectual and legal slum into which we push more and more work, irrespective of the fact that we know we are not giving it the facilities to deal with it. For instance, if it cannot deal with a complex case of larceny, where someone will go to jail for two years — and it cannot deal with that case because larceny is not a minor offence on the criminal side — why should it decide where a child is to spend from two to 16 years of age? If it can only deal with minor cases in criminal law, how can it decide major matters in relation to a child's upbringing and welfare?

Much more importantly, I wish to remind the Minister and the Minister of State that the only function of the District Court is that it is a court of local and limited jurisdiction under the Constitution. It has no right to make far-reaching decisions about the welfare of a child. Upper class children, and those who have the services of lawyers who will act for nothing, get a High Court judge to exercise wardship jurisdiction over them.

That happens in the High Court on one front but we are making a jurisdiction for the District Court — the poorest of courts in terms of resources, the most overstretched in terms of its time, availability and commitment, the most undertrained and underqualified of our courts, with the greatest of respect to its members — to make the most dramatic and far-reaching decisions, especially for the poorest of children. That is an indictment of us because we think we can give to a minor court of summary jurisdiction far-reaching decisions about children whose interests require to be protected. The District Court ... will fail in its duty to the children because it does not have the resources, expertise, time or inclination to do what is necessary in the interests of those children. Above all — unlike the High Court — it is a court of limited jurisdiction.

I should like the Minister of State to tell me how a court of limited jurisdiction can decide, effectively, on a child's whole future on the basis of a half an hour in

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some unheated, half ruined building, erected in the 19th century and which is totally unsuited to its purpose.

As a group they [family lawyers] are just like other lawyers; they will complicate many simple issues and fight others which perhaps should not be fought.

The simple fact is that the District Court is the worst court to decide these issues."

We would concur with Minister McDowell that no-one who cares for their children should enter such a Court expecting justice for their children and themselves.

It is important to note that the harsh criticisms heaped on the District Court by our current Minister for Justice back in 1988 are as valid today as they were then.

The District Court as he pointed out is a Court of Summary Justice. Children deserve and in fact are guaranteed by the proper observance of the Kindersley rules more than a 'summary hearing' of matters critical to their wellbeing. Restriction of the hearing to anything less than two days shows total disrespect for the welfare of the children involved. It would be rare for a hearing in a District Court to last as long as 30 minutes.

Apart from Mr McDowell's major prohibition on the use of District Courts to deal with matters relating to children, we have compiled, from reports received through our helpline, the following list of serious causes for concern about the functioning of the District Courts:

No transparent proper procedures are available to public scrutiny which show how records of applications, reports and input from witnesses if any and judgements should be kept, who can provide them, who should safeguard them and how and who should have access to them.

Because of the universal use of the *in-camera* rule by Judges which prohibits there being witnesses or reporters present the case histories/records held by the District Court Clerk often constitute the only and therefore critical piece of evidence and so whoever has control of them has an unfair advantage.

This is further compounded when oral applications can be made with very little formality and cross applications take precedence.

There is widespread abuse of adjournments, again with little formality, to delay justice. This is an abuse of process and is particularly unacceptable where the welfare of children is concerned.

No identifiable person appears to be responsible for the coherent development of the issues of the case. Each re-hearing appears to offer an opportunity for a new approach rather than a continuation of issues at the point where the case was left. This allows further obfuscation of the facts and unjustifiable delays.

The simple fact is that the District Court is the worst court to decide these issues [concerning the welfare of children]."

oral applications can be made with very little formality and cross applications take precedence.

serious causes for concern about the functioning of the District Courts:

CUSTODY

The government-funded but independent Legal Aid Board claim in their 'Leaflet No.2 on General Family Law' that married parents have the Joint Custody of their children.

We can find no evidence to support this claim.

The position regarding the custody of children in Ireland was quite clear up until 1964. The father had the family and children in his custody at Common Law."

"as long ago as 1828, a great jurist told an appellant father (who was a reprobate) in the House of Lords that the custody of his children was given to a father, first, for their protection, and then for their care and education, ..."

The mother had the right to petition the Court for custody of the children if she had grounds to do so.

The father's right was absolute unless disturbed by an Order of the Court. In 1964 mothers lost their right to petition the court for custody through the repeal of the Custody of Infants Act 1873 and the Guardianship of Infants Act 1886.

As Joint Guardians they can now make applications to the Court on questions affecting the welfare of the children under section 11 of the Guardianship of Infants Act, 1964 thus invoking the jurisdiction of the Courts of Chancery and thereby enabling the father's custody to be superseded by the state.

The Guardianship of Infant's Act (1964), no doubt swayed by the equality impulse, claimed to give statutory effect to the principle

*"that both parents **should** have equal rights to Guardianship and Custody."*

This Act was aspirational in that it opened the door of opportunity for women to take up an equal responsibility in providing, protecting, caring for and educating their children.

What it didn't do was give them custody jointly with the father.

If this had been the case then the Act would have had to repeal the 1886 Maintenance and Desertion Act which held fathers only to have the Custodial responsibility of providing for their wives and children. Furthermore the Constitution, under Article 41.2, would have had to be amended so that mothers could play an equal role in providing for their families and thereby be considered full Custodians

42.1° In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved.

2° The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.

The Family Law (Maintenance of Spouses) Act, 1976, being gender neutral, similarly opened the door for women to engage fully in providing for their families. Yet after 40 years of being joint Guardians there has been no call from women or

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women's groups to amend this article of the Constitution despite their massively influential presence in every sphere of public life including having the benefit of Government Departments of Women and of Equality at their disposal.

The result is that mothers can still not be held responsible as Custodians of the family!

A married father has Custody of his children. A married father is accountable.

He can lose that right by his own misconduct in becoming an unfit parent. For this to happen an Order of Unfitness must be made against him.

Alternatively he can relinquish those rights.

If neither of these positions pertain the mother somehow has to undermine that position in order to gain control of the children and all the family assets that flow from their possession.

The father is placed under attack. This happens in various ways but can be summed up simply as follows:

1. In the majority of cases that do not proceed to have a hearing in court the father is encouraged and pressurised to come to an arrangement whereby he gives up Custody to the mother and accepts a minimal access arrangement, as determined by the mother. His decision to accept this is coloured by both the prevailing knowledge that men are discriminated against in law and in society in general and importantly and crucially by a solicitor, that he has employed to advise him, failing to inform him of his full parental and Constitutional rights and those of his children.

2. Where the father has the tenacity and integrity to realise that accepting access is not an appropriate way to parent and insists that he has parity of esteem with the mother so that the children can continue to benefit from the love, care and guidance of both parents he is attacked through the use of the Maintenance and Domestic Violence Acts.

Both these laws are used as legal loopholes that circumvent the parental rights of the father and avoid the legal protections that should be afforded to his children. Even though these Acts do not deal ostensibly with the Custody of the children the Orders that are made as a result of applications under these Acts are in effect de-facto custody orders as they seriously impact on the whole future lives of the children.

3. In situations where the father somehow avoids falling into the traps and trickery set for him by the legal profession and mediators etc and bereft of his children and desperate for a solution the Court appears to be the only hope left and the father will attempt to make an application to the Court for the restoration of his Custody.

Following logically from the Common Law position under Irish Law any petition made by a father for the restoration of his Custody of the children of the marriage against his wife could not be refused by the Court.

However no investigation of family law cases in Ireland could fail to take note of the peculiar absence of any Custody Applications made by fathers since 1964.

The reality, as reported to us, for fathers who approach the Courts with the expectation that their family's civil rights will be honoured and that they, as parents, will be paid the proper respect by the court, is that they find themselves attacked and abused for caring about their children.

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Any application made to a court by the father will be met by a counter application made by the mother. On the claimed basis that the court must reach a balanced decision 'in the best interests of the children' normal civil law procedures are abandoned. A mother will always be facilitated in making a "cross application" or a "counter complaint" regarding the custody and/or maintenance of the children.

The mother is then granted her wishes and the father's case is not heard. His presence in the Court is only necessary so that it might appear that "justice has been done!"

This does not occur in just a few isolated cases. After a four-year intensive investigation by the National Men's Council of Ireland, in all the cases that have been brought to our attention we have never come across a case that did not follow this pattern.

We are therefore forced to come to the stark conclusion that any father, finding himself bereft of his family, will find no legal remedy in the District Court.

In fact today, verified by statistics published by the Courts Service, applications for Custody under the Guardianship of Infants Act, 1964 now account for less than 10% of all family law cases entering the District Courts.

The vast majority now fall under the heading of the Domestic Violence Act, 1996 which provides a legal loophole by which a proper investigation of what is in the best interests of the children can be avoided.

This is now used as a fast-track method of gaining possession of the children and the family home without any regard to the established Rules of Court governing the welfare of children.

An Interim Barring Order takes no regard for the welfare of the children of the family and despite serious concerns pointed out in the recent Supreme Court ruling which found them Unconstitutional the resulting amendment which was railroaded through the dail without proper debate also fails to address this.

Contrary to what Minister Haughey had to say about the Kindersley Rules, " ... it is only in the most exceptional and necessary cases that the courts will interfere with the natural right of the parents in respect of their children" Interim Barring Orders and even Barring Order hearings under the Domestic Violence Act, 1996 flout these Rules and render Orders made under them unconscionable.

Consideration as to how the effect of barring on a parent will impact on their children must be taken into account and this is rarely undertaken with anything approaching the degree of importance demanded by the Kindersley rules.

The National Men's Council of Ireland is on public record as stating that all acts of violence against a person including intimates should be treated as a crime and prosecuted through the Criminal courts, not in the secret in-camera courts where justice can never be seen to be done.

This would ensure that the normal standard 'beyond reasonable doubt' would be applied to prove that an act of violence had actually occurred rather than the demonstrably weaker level of requirement that the applicant was able to carry the burden of proof by making a convincing petition required under the Domestic Violence Act – merely that 'there are reasonable grounds for believing that the safety or welfare of the applicant so requires [it]'.

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the Domestic Violence Act, 1996 which provides a legal loophole by which a proper investigation of what is in the best interests of the children can be avoided is now used as a fast-track method of gaining possession of the children and the family home without any regard to the established Rules of Court governing the welfare of children.

Welfare is interpreted to include the physical and psychological welfare. There is no requirement in civil actions to actually provide evidence that any act of violence ever took place, so that even totally trivial matters can be used to secure a barring order and thus the custody of the children, possession of the family home (worth on average in Dublin 300,000) and payments towards the maintenance of the applicant and children.

This could not be further removed from the guarantees given to legislators by Minister Haughey when he said that:

*“The court must not act in opposition, as it were, to the parent unless it is judicially satisfied that it is necessary in the interests of the child, beyond any **shadow of doubt**, that it should interfere”.*

In practice the court hurriedly distorts and upsets the balance needed in a family by making the interests of the mother paramount over the father and over even those of the children.

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MAINTENANCE

Throughout history a married woman and the children of the marriage were considered quite naturally to be under the protection of the husband.

A father quite naturally and instinctively provides for as well as protects his family.

Before the scourge of feminism society's laws were structured to support the father in his role as protector and provider. In this way he was entrusted with the custody of his family.

If a husband neglected his duty to protect and provide for his family within his means society deemed him irresponsible and the state felt justifiably within its rights to intervene.

The Courts of Equity placed a trust in the authority of the father and it was only where that trust was abused and the welfare of the family neglected that the court would step in and make orders to remedy the problem that had arisen.

The 19th Interim Report on Desertion and Maintenance by the Committee on Court Practice and Procedure that was requested by the Minister for Justice, Desmond O'Malley in 1973 summed up the situation thus:

"7. Until 1886 a wife who had been deserted by her husband had one remedy only, an action for restitution of conjugal rights. As these proceedings could be brought in the High Court only, they were beyond the means of most of the population. In 1886 the Married Women (Maintenance in case of Desertion) Act was passed to give a summary remedy to wives who had been deserted. The magistrates could order the deserting husband to pay his wife a weekly sum. The Act referred to a married woman "who shall have been deserted by her husband" and so, on a literal interpretation, 'gave no remedy to a wife who had had to leave the matrimonial home because living with her husband had become impossible. To deal with this situation the Courts evolved the idea of "constructive desertion" the effect of which was that if the husband's conduct was such that a reasonable man must know that it would probably result in the departure of his wife from the matrimonial home, he was regarded as having deserted her (see Lang V. Lang [1955] A.C. 402). This doctrine has been extended to cases where husband and wife are living in the same house, but do not speak to each other and the husband makes no contribution towards the household expenses. Thus the concept of desertion has been widened so that it includes cases which would not in ordinary speech he regarded as desertion

8 Desertion may be committed by either spouse and in modern society we see no reason why the summary remedy should be available against a husband and not against a wife for if she contribute materially to the family's living expenses, she doe, in some cases as much damage to the family's well-being by the act of deserting it, as her husband could.

men are being condemned as "maintenance debtors", and are sold into slavery by the state.

An interim order ... may be made without very much formality in regard to proof of a prima facie case since the aim of the section is to ensure that cases of need will be met quickly.

To an extent this may be criticised as ROUGH JUSTICE!

9. It 'has been urged upon us that the Court should have jurisdiction to deal with cases where there has been a failure of the spouse who is responsible for the support of the family to provide a reasonable standard of living for them having regard to his means. Such a spouse however could not be regarded as having deserted his wife and family. We have received evidence of cases in which a wife has been treated in such a way that she would have been justified in leaving the matrimonial home but did not do so because she was reluctant to bring proceedings or because she had nowhere to go.

10. It was also urged that the right of a spouse to obtain a Court Order for payment of a weekly sum of money should not be confined to cases in which there has been actual or constructive desertion and that the idea of desertion as the basis of jurisdiction should be abandoned. It was suggested that failure to maintain to be described as "family default" should be the basis of the jurisdiction.

11. As the basis of our examination of the problem we decided that it should be considered under the headings of

(a) actual abandonment of the family home, the other spouse and the dependent children and failure to maintain them or

(b) such ill treatment, physical or mental, or other misconduct on the part of one spouse as would reasonably justify the other in leaving the family home and a failure by the spouse in the family home to maintain the other or

(c) such ill treatment, physical or mental, or other misconduct on the part of one spouse as would reasonably justify the other in leaving the family home although she or he does not do so and a failure by the spouse who earns to maintain the other or

(d) failure of the spouse who is responsible for the support of the family to provide a reasonable standard of living for them having regard to the means and earnings of that spouse.

12. Notwithstanding that recommendations could result in a considerable increase in the number of cases brought, it was urged that this consideration should not stand in the way of a remedy for a pressing social evil. It was also urged that all applications under a new Act embodying these concepts should be heard in private and that the Judge or District Justice hearing the case should have no discretion in this matter. This would avoid the risk of proceedings being brought under the new Act in order to compel a spouse to pay a large sum to avoid the publicity of legal proceedings.

This report was used as the basis for the Family Law (Maintenance of Spouses and Children) Act, 1976 as stated by the then Minister for Justice, Mr Cooney when he introduced the Bill to the Dail

"I have mentioned earlier that the Committee on Court Practice and Procedure recommended that "family default",

Under these circumstances the innocent party, being the father, is the only person who has grounds to apply for maintenance for himself and the children.

Section 5, therefore, entrusts the innocent spouse with the task of representing the interests of the children in an action for Maintenance against the defaulting spouse."

In one of the sickest acts of betrayal imaginable, most men find their own solicitor advising them to offer a payment of money toward the cost of maintaining the family,

rather than desertion, should be the basis of an order for maintenance. Their report, in paragraph 44, lists the situations in which it would be appropriate to provide for the grant of maintenance orders and in fact recommends that list as a definition of “family default”. Having considered the matter fully, I believe the formula incorporated in section 4 (1) of the Bill, a formula which in effect is a shorter definition of family default, covers fully the same ground as that covered in paragraph 44. In other words, I am adopting the committee's recommendations in substance, even though not in the form suggested.

The basic principle that a married woman has, or at all events may have, a moral obligation in relation to the maintenance not only of her children but, where the need arises, her husband as well is one which most people accept. “

The conclusions that must be drawn from the Report, from the debates in the Oireachtas and the consequent Bill are that the only “*pressing social evils that the Bill sought to remedy*” that were not adequately covered by existing legislation were

1. Desertion by working wives
2. The ‘failure’ of either spouse who had taken on the responsibility of earning to allocate, from the wages they received, what the other spouse said they wanted.

The Minister affirmed to the Dail that this was a ‘moral’ law when he stated

“The present law is that the deserting husband may be sued by his wife on behalf of herself and their children. The proposed provisions enable one spouse to take maintenance proceedings against the other spouse on behalf of himself or herself and children where the other spouse fails to provide proper maintenance for the family. The section, therefore, entrusts the “innocent” spouse with the task of representing the interests of the children in an action for maintenance against the defaulting spouse.

In the case, however, of a stubborn refusal by a spouse to give his family adequate maintenance, it seems only just that the other spouse should be enabled to protect the interests of the family—especially the children—by being entitled to take maintenance proceedings.”

However, as shown, the result of the legislation was that the only person against whom an order could be sought for a payment of maintenance was the person who had taken it upon themselves to work – the spouse who daily made the sacrifice of leaving the comfort of their home and family in order to provide for them!

Due to the position of women in the Constitution under Article 41.2 the only person who can be considered “responsible for the support of the family” is someone who is not a woman – the husband!

The finding of ‘failure to maintain’ by a Maintenance Order made under this Act instantly condemns the spouse against whom it is made to the status of an ‘unfit parent’ with regard to the Constitution and their rights to the custody of their children.

Hence, despite its apparent 'gender neutrality' the Family Law (Maintenance of Spouse) Act, 1976 actually persecutes and enslaves the man.

The European Convention on Human Rights, to which Ireland is a signatory states in Articles 4.1. And 3.:

No one shall be held in slavery or servitude.

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

As we have seen, having no way to exercise their family rights men are being condemned as "maintenance debtors", and are indeed sold into slavery by the state.

The usual court process is that an "Interim Maintenance Order" is made against the father in the District Court.

This is completed within half an hour or so without any proper evidence being presented to the Court but merely on the basis that the mother has applied!

Casual as this process is and without warning or notice to the father of the onerous nature of this event, he is effectively found 'guilty of abandoning or deserting his children' by a Maintenance Order being made.

Our research into the background to the Family Law (Maintenance of Spouses And Children) Act 1976 shows specifically how Section 7, Interim Maintenance-Orders were introduced by the then Minister for Justice, Mr. Cooney during the second reading of the Bill by Dail Eireann in 1975.

"Section (7) enables the court to make an interim order in cases of need. It may be made without very much formality in regard to proof of a prima facie case since the aim of the section is to ensure that cases of need will be met quickly.

To an extent this may be criticised as ROUGH JUSTICE(!) but desperate diseases require desperate remedies and the possibility of an unwarranted imposition upon a defendant under the section is likely to be minimal in contrast to the general benefit which the provision will confer on badly neglected wives and children."

Rough Justice indeed!

It is quite apparent that these Interim Orders will have entirely prejudiced the outcome of the vast majority of child custody cases since the implementation of the 1976 Act. How few of the distraught and bewildered parents who lost custody of their sons and daughters were aware of the significance of these orders to the future of their children's lives?

These orders find the parent guilty of failing to maintain their children, and, by implication, of abandoning and neglecting them! Solicitors routinely advise fathers to make payments towards the maintenance of their children, even where the circumstances of the case do not warrant it.

The Family Law (Maintenance of Spouses And Children) Act, 1976 was introduced specifically to address the problem of "Desertion and Maintenance". Its provisions enable one spouse to take maintenance proceedings against the other

spouse on behalf of himself or herself and children where the other spouse fails to provide proper maintenance for the family. Quoting directly again from Mr Cooney,

“Section 5, therefore, entrusts the INNOCENT SPOUSE with the task of representing the interests of the children in an action for maintenance AGAINST THE DEFAULTING SPOUSE.”

What happens in the Family Court when an unwitting parent responding to a Maintenance Application or advice from their own solicitor arranges in good faith to continue in their duty to provide for the family?

The Court views their innocent and genuine concern as an admission of guilt to a charge of “family default”, of which they are completely unaware. The parent's willingness to give financial support even though he does not at all consent to the children being with the mother is treated as proof of him having failed to maintain the family!

In one of the sickest acts of betrayal imaginable, most men find their own solicitor advising them to offer a payment of money toward the cost of maintaining the family, knowing full well that this very normal action of providing financial support will in effect be seen by the Family Court as him ‘consenting’ to relinquishing the custody of their children and in most cases the family home.

In October, 2002 the Supreme Court found that the Interim Barring Order provision of the Domestic Violence Act, 1996 was invalid having regard to the provisions of the Constitution. The Supreme Court's conclusions in the case of Interim Barring Orders made ex-parte can be similarly applied to the effects of an Interim Maintenance Order *“made without very much formality in regard to proof of a prima facie case”*:

The Supreme Court judgment stated:

“It must be born in mind that an interim barring order will typically be granted in a case where the relationship between the parties has effectively broken down and disputes have arisen, or will arise, in relation to matters such as custody of children, the payment of maintenance and adjustment of property rights.”

And importantly,

“may in such cases crucially tilt the balance of the entire litigation against him or her to an extent which may subsequently be difficult to redress.”

The National Men's Council of Ireland have found that this situation also occurs, as with the Interim Barring Order, with the granting of an Interim Maintenance Order against a parent.

ONE-PARENT FAMILY PAYMENT

The One-Parent Family Payment is a scheme under the Lone Parent Allowance regulations introduced under the Social Welfare act of 1993.

Lone Parent Allowance is defined by the Department of Social, Community and Family Affairs as *'a scheme designed to assist parents bringing up children without the support of the other parent.'*

We estimate the taxpayers of Ireland are giving recipients of the One Parent Family Payment scheme 1.75 billion annually to break up their families.

This is in direct contravention of Article 41 which states:

"1.1° The State recognises the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.

1.2° The State, therefore, guarantees to protect the Family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and the State.

3.1° The State pledges itself to guard with special care the institution of Marriage, on which the Family is founded, and to protect it against attack.

Rather than pay a parent to separate from the other parent and leave the children at a huge emotional and social disadvantage we propose that the state use the same amount of money as is being spent at the moment but follow it's Constitutional mandate by distributing the 1.75 billion directly to all the families that stay together.

This means that the state can afford to pay every family that stays together 90 per week for the pleasure and untold benefits it has for every member of the family, especially the children.

Under the scheme as it currently operates, a deserting wife would be encouraged to make a One Parent Family claim. A Social Welfare Inspector may call to see her husband but he wont ask him if he consents to the children living away from the family home or from him or if he is abandoning his responsibilities towards his children.

The One Parent Family Payment purports to be a benefit for parents bringing up a child without the support of a partner. However, as we have shown, the Social Welfare Officer won't ask if the children have been abandoned by the other parent even if the truth is plainly that claimant is obstructing the father from carrying out his responsibilities.

The "qualifying conditions" for an award of this pension are:

1. That the claimant has the "main care and charge" of our children. The Social Welfare Officers do not ascertain the validity of this claim.

2. Claimants must make "appropriate efforts" to "get maintenance" for herself and the children. The One Parent Family payment scheme did away with the requirement that a claimant prove desertion by their spouse. The 1976 law on maintenance is based on the concept of "Family Default". Under this law a deserting spouse cannot be entitled to a maintenance payment.

One-Parent Family Payment is a direct attack on the institution of marriage

The Department of Social Welfare make no effort or even approached the other spouse to gain their consent, written or otherwise, for the payment of One-Parent Family Payment to their wife and children.

The One-Parent Family Payment ... is defined by the Department of Social, Community and Family Affairs as 'a scheme designed to assist parents bringing up children WITHOUT THE SUPPORT OF THE OTHER PARENT.'

The deserter and defaulter in the family is not even entitled to make an application to the Court, this duty being entrusted only to the innocent spouse. Such a claimant can never fulfill this qualification.

The term "maintenance" on the application form for for One Parent Family Payment is defined to mean "income". The form also states that the terms used are not legal terms. It appears from this that the form is in fact meaningless and not legal.

Article 42.1 of Bunreacht Na hEireann states that parents have an inalienable right and duty to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children.

Article 42.5 provides that the State can only endeavour to supply the place of the parents where the parents have failed physically or morally to provide that education.

The Social Welfare Dept. has taken over the position of parents as the provider for childrens' education without any evidence being required or produced that one of their parents had in any way failed in their duties, in complete violation of their fundamental rights and the Irish Constitution.

In making its decisions a Government Department is bound by the general principles of Natural Justice:

1. A person or body deciding an issue must be unbiased, that is ought not to be judge in his or it's own cause.

2. "Audi Alteram Partem" - each party must know the case against it and be given an opportunity to present their position.

The Department considers itself outside of the need to observe these rules.

Further the 'non-claiming' parent's name will be recorded with the "Liable Relative" section of the Dept. of Social Welfare where they will be listed as a "maintenance debtor". If they should find time to work in between desperate attempts to rescue their children, they will be expected to "make a contribution" towards the illegal payments that the Dept. has been making to their wives. If they don't comply with the Department's demands they will bring a civil action against them in the Courts. If they don't comply with a Court order they will be imprisoned.

So far our research has revealed that Section 316(contributions towards benefit or allowance) of the "Liable Relative" provisions - Part x of the Social Welfare Act of 1989 - is applicable where there has been a payment of a Deserted Wife's Benefit, a Deserted Wife's Allowance,or a Deserted Husband's Allowance. These are now replaced by the "non-Judgmental" One Parent Family Payment Scheme. The "Liable Relative" provision was brought into law on the strict understanding that it would be applied only in cases of desertion. The use of this provision and the involvement of the "Liable Relative Section" regarding claims for One Parent Family Payment, and the subsequent intimidation and harassment of deserted husbands, appears to be completely illegal.

The parent is registered as a "maintenance debtor" with this organisation. As such they are held in Debt Bonded Slavery by their wives and the Social Welfare Dept even though they were never consulted in any way whatsoever by the Social Welfare Dept. when they took over the Custody of their children by providing for their welfare through this payment. the claimant can receive this "non-judgmental" pension for the rest of her life, and her husband will be expected to "contribute" as

Rather than pay a parent to separate from the other parent and leave the children at a huge emotional and social disadvantage ... without costing the taxpayer a single cent more ... by distributing the €1.75 billion directly to all the families that stay together ... the state can afford to pay every family that stays together €90 per week for the pleasure and untold benefits it has for every member of the family, especially the children.

It is available to parents ONLY IF THE OTHER PARENT IS DECEASED OR HAS DESERTED THEM AND THE CHILDREN.

long as she lives. Any Civil Legal action taken will have prejudiced by the involvement of the “liable relative section” any action that may be taken in the future will be similarly prejudiced.

What must also be considered is the incentive given to homebreakers and child exploiters by the easy availability of the lucrative One Parent Family Payment Scheme. The Social Welfare Dept. requires no evidence whatsoever from claimants that they are genuinely bringing up children without the support of a partner. With its many built-in additional benefits, such as the 50% “bounty” paid to claimants of any Court ordered maintenance, and instant access to socially inclusive housing, the scheme is an ever present threat to every family.

Not only does it entice, but it also throws its victims into an adversarial legal system that will cause such bitterness that there is little likelihood of the family surviving the experience. This is what has happened to countless families.

One-Parent Family Payment is a direct attack on the institution of marriage, on family life, and on children’s lives. It is the main cause of family break-up. It is the instigating force behind the traumatic adversarial legal proceedings that bring years of suffering to thousands of families, and result in damage that can rarely be undone.

Why is she acting in loco parentis for parents without any lawful authority to do so?

Why is she paying parents this money on the condition that they do not enter into a Joint Custody Agreement?

Encouraged by the easy availability of One-Parent Family Payment, wives desert the family home and take possession of the children

The National Men's Council of Ireland has a National Executive and a Regional Structure along the lines of the Health Boards.

The National Executive:

ROGER ELDRIDGE – Chairman NMCI

Executive Director of the NMCI for the North Western Region (Family Matters)

HANS BENNER – Secretary NMCI

Executive Director of the NMCI for the Southern Region (Separation Crisis)

HARRY REA– Treasurer NMCI

Media Officer of the NMCI for the Southern Region (Separation Crisis)

MARTIN BRENNAN – Development Officer

Operations Manager of the NMCI for the Southern Region (Separation Crisis)

ANDREW KING – Resource Officer

Executive Director of the NMCI for the North Eastern Region (Family Men)

MICHAEL SHEEHAN – Assistant Treasurer

Executive Director of the NMCI for the South Western Region (Parents Fight Back)

DANNY DESMOND – Assistant Secretary/Education Officer

Operations Manager of the NMCI for the South Western Region (National Parent Teachers Alliance)

NORA BENNIS – Vice Chairman

HENRY SCHWAB – Health Officer

MEDIA LIAISON GROUP

Hans Benner (with Martin Brennan and Harry Rea)

Danny Desmond (with Nora Bennis and Michael Sheehan)

Roger Eldridge (with Andrew King and Henry Schwab)