



**To the All-Party Oireachtas Committee on the  
Constitution in response to your advertisement  
inviting written 'submissions.'**

**10 February 2005**

**Observations on the  
Law of the Family**

**National Men's Council of Ireland**

*APPENDICES: (all documents available to download from our website [www.family-men.com](http://www.family-men.com))*

1. Parental Rights and Marriage in Ireland & the Constitutional Review,  
*November 2004 - An Analysis.*  
*National Men's Council of Ireland*
2. Open letter to all TDs and Senators sent 18 July 2004 outlining the  
Marriage Crisis and enclosing copy of 'Brides of the State' and the  
Family Man  
*National Men's Council of Ireland*
3. The Family - Marriage and Children  
– *Some Observations* *National Men's Council of Ireland*
4. The Rights of Women & the Violation of their Marriages by the State.  
– *Some Observations* *National Men's Council of Ireland*

## Considering your advertisement

Upon considering the matter and with the benefit of examining the Briefing Documents produced by the Committee but not made generally available to the citizens through your advertisement, we make the following observations.

1. Under the Constitution of Ireland, 1937 it is the responsibility of the elected representatives to submit their proposals for amendments to the Constitution to the people who are the Sovereign power. Article 46.2

### ARTICLE 46

*1 Any provision of this Constitution may be amended, whether by way of variation, addition, or repeal, in the manner provided by this Article.*

*2 Every proposal for an amendment of this Constitution shall be initiated in Dáil Éireann as a Bill, and shall upon having been passed or deemed to have been passed by both Houses of the Oireachtas, be submitted by Referendum to the decision of the people in accordance with the law for the time being in force relating to the Referendum.*

Your request for 'submissions' from the people, the Sovereign power, to yourselves, an informal committee of Deputies that holds no statutory power would appear to be a USURPATION OF SOVEREIGNTY.

2. You appear to have failed to properly inform the citizens of Ireland of the true agenda of your committee. The advertisement placed in national newspapers omitted the following paragraph.

*"The committee's concern will be to analyse the issues to determine whether or not legislative provision has been constrained by the Constitution so as to prevent a proper balance being achieved between the rights of the individual and the good of the community; and if it has, TO MAKE RECOMMENDATIONS FOR CONSTITUTIONAL CHANGE."*

Of all the documentation that you have provided only this paragraph describes precisely the whole purpose of your activities. THEREFORE ANY GROUP OR INDIVIDUAL WHO RESPONDED TO YOUR ADVERTISEMENT WITHOUT KNOWLEDGE OF YOUR PURPOSE WAS DECEIVED.

It is plain from this paragraph that your committee intends to entirely disregard any public concerns that their Constitutional Protections should be retained, protected or strengthened and that your intention is simply to filter out material that does not support your own agenda and to only consider **change to the constitution which would act, by definition, contrary to the current common good.**

This is not declared in the advertisement.

3. It would appear from the following paragraph that does appear in your advertisement

*The All-Party Oireachtas Committee on the Constitution, which is charged with reviewing the Constitution in its entirety, is now examining these Articles to ascertain the extent to which they are serving the good of individuals and the community, with a view to deciding whether changes in them would bring about a greater balance between the two.*

that you have failed to comprehend the purpose of these Articles [41,42].

The Preamble to the Constitution will assist you to a proper understanding.

*Preamble to the Constitution*

*And seeking to promote the common good, with due observance of Prudence, Justice and Charity, so that the dignity and freedom of the individual may be assured, true social order attained, the unity of our country restored, and concord established with other nations ...*

The Articles of the Constitution, as you can see, and in particular the Family articles exist to serve only “the Common Good” from which the dignity and freedom of the individual will be assured. Your stated purpose therefore is obviously futile since the balance you seek to ascertain is neither intended nor given effect by these Articles.

4. The concern of your Committee, as you have stated in your Briefing Document No. 2, is to determine if a ‘PROPER BALANCE’ has been achieved between the RIGHTS OF THE INDIVIDUAL and the COMMON GOOD and IF BY YOUR EVALUATION IT HAS NOT YOU INTEND TO RECOMMEND CHANGE TO THE CONSTITUTION.

Your concerns appear to be almost identical to the agenda of the Irish Human Rights Commission stated to us in a letter dated 8 December 2004, where the Chairman Mr Manning wrote

*“Our job is to examine the law and practice to ensure that it does comply with all human rights law, both in the Constitution and International Covenants and if we are not happy that it is so, to ask that the law be changed”*

However it would appear to us that your proper job in this instance of the matter of Constitutional amendment is laid out for you in Article 46.2 which states,

**ARTICLE 46**

*1 Any provision of this Constitution may be amended, whether by way of variation, addition, or repeal, in the manner provided by this Article.*

*2 Every proposal for an amendment of this Constitution shall be initiated in Dáil Éireann as a Bill, and shall upon having been passed or deemed to have been passed by both Houses of the Oireachtas, be submitted by Referendum to the decision of the*

*people in accordance with the law for the time being in force relating to the Referendum.*

*and*

#### **ARTICLE 6**

*1 All powers of government, legislative, executive and judicial, derive, under God, from the people, whose right it is to designate the rulers of the State and, in final appeal, to decide all questions of national policy, according to the requirements of the common good.*

It is quite clear from this that your job as TDs is, if you feel it is necessary, to propose to the citizens by way of a Bill any amendment “according to the requirements of the common good”, and obviously you must present argument in favour of your own proposal to explain clearly to the people how this amendment will benefit the Common Good.

Your job is not to determine “a proper balance” between individual rights and the Common Good. Your job is to co-ordinate these factors.

*President de Valera: “The position of a Legislature, ... for the future as in the present must be that it will be free to co-ordinate the public good, the individual good and the individual right. That is its prime, main duty.”*

*{Debates on the Constitution, 4 June 1937}*

It would appear therefore,

- i. That you have attempted to usurp the Sovereign Power of the people.
- ii. That you have misinformed and deceived the people of your true purpose and in doing that have wasted the public’s time and abused their genuine concern for the Family and the well-being of the nation.
- iii. That you have misused public funding in that you are undertaking a job that the Constitution does not require you to do and which can serve no purpose.

## Development of the legislation

We are particularly concerned by the second paragraph of your advertisement and your claim that,

*“Following the enactment of the Constitution, legislation relating to the family has been developed in line with those Articles [41, 42 and 40.3] and elucidated by the courts in a substantial body of case law. ”*

Professor Delaney in his work, “The Administration of Justice in Ireland” describes this process of ‘elucidation’ and the technique of statutory interpretation that has developed.

*“The interpretation of a piece of enacted law requires not only a familiarity with the meaning of technical legal terms, but also with the whole branch of the law of which the statute forms a part; in particular, it requires a knowledge of the rules of interpretation which are themselves rules of law. Thus there is a rule against taking into account anything said or done while the statute is passing through parliament; and there are certain statutory rules with regard to the construction to be placed on words importing number and gender. If a question as to the meaning of a statute arises in an action at law, the judge will have to decide the meaning, and his decision will be binding for all future cases in which the same question arises”*

If we compare the will of the legislature and the way that eminent judges have interpreted their legislation we can see immediately how the will of the people, the Sovereign Power in Ireland, can never be safely implemented through the courts.

In the lead up to the vote on Article 41 of the Constitution, on 4 June 1937, Eamon de Valera is asked to clarify the meaning of “inalienable and imprescriptible rights” so that the legislators would understand clearly what they were voting for.

*Professor O'Sullivan: That is all I want to know. The court will then be in the position of deciding what “inalienable and imprescriptible rights” are, ...*

*President [Eamon de Valera]: ...The inalienable and imprescriptible rights are the rights [of parents] to look after the maintenance and control of the children. ...We want to stress the fact that these inalienable and imprescriptible rights cannot be invaded by the State.*

*Article 41 put and agreed to.*

Compare this with the interpretation of these “inalienable and imprescriptible rights” by Barrington J. in the Supreme Court in O'R. (W.) v H. (E.) [1996] IESC 4 (23rd July 1996)

*“Article 42 of the Constitution is an extension of Article 41 and refers to parents and children within a Family context. It refers to the inalienable rights and duties of parents and to the imprescriptible rights of the child.*

It clearly does not according to the will of the legislature. Barrington then continues,

*In other words it refers to a relationship between three people which carries with it reciprocal rights and duties which the positive law is enjoined to respect. The rights of the child are clearly predominant. They alone are described as being imprescriptible ...*

Again reference to the debates and the meaning specified and agreed to by the Oireachtas clearly shows that parents rights are also imprescriptible and clearly predominate. Barrington’s interpretation is fallacious. De Valera explained to the Oireachtas that the parents needed their inalienable and imprescriptible rights so they could look after and control their children.

Again Barrington opined,

*Article 42 is concerned primarily with the relative rights and duties of parents and children. Article 41, by contrast, is concerned with the Family as a group or institution and with its rights vis-a-vis other groups or institutions in society”*

As we have seen this is plainly not true because De Valera explained to the Oireachtas that the inalienable and imprescriptible rights are the rights of parents to look after the maintenance and control of the children and the Article was passed on that basis.

If no account is taken by Judges, in the interpretation of the Constitution, of the debates where the true meaning of provisions are explained and the legislation passed on that basis then democracy is seriously at risk and the morals of the nation are prey to the sort of Judicial Activism perpetrated by Barrington J in the example given.

We must note here that despite the accepted rules of interpretation, it appears judges are free to ignore them when it suits and even second guess so-called ‘intentions of parliament’. As an example Murray J., presently Chief Justice and Chairman of the Courts Service, in the Supreme Court, R.v R. and the State, April 2 2004, 436SS., who apparently felt able to,

*“know the clear INTENTION OF PARLIAMENT that the courts should have a discretion to award custody to either separated parent according to what was in the best interests of the children”.*

## **The Constitution protects the People**

Fundamentally, the 1937 Constitution of Ireland recognises that the greatest possible danger to the freedom and well-being of its people lies in interference by the State in the Family.

By observation of the breakdown of social structure by other Nations the People of Ireland were able to identify the root cause of the problem was founded in the unfettered authority of the State.

It can come as no surprise, therefore, that Ireland's Constitution is incompatible with many of the international Conventions at present in existence. This was the deliberate intention of the Family provisions of the Constitution and their sole purpose is to protect the Irish people from descending into the pit of moral and social chaos that has engulfed many other nations.

Successive Irish governments over the past forty years have betrayed the Irish people through the introduction of legislation repugnant to the Constitution and through signing, ratifying and implementing International Conventions which are in conflict with the fundamental rights of Irish people.

*“First of all, the Family stands as a bulwark against the State.*

*It has been described as the greatest fortress of human liberty.*

*All serious tyrannies have tried to undermine it”.*

*– Baroness Young, “Standing Up For The Family”“*

## **Fundamental principles relating to the Family brought about by the enactment of the Constitution.**

1. The State no longer has the authority of the Crown of England. The people are no longer subjects of the King and are FREE PERSONS AND AS CITIZENS HOLD THE SOVEREIGNTY OF THE NATION.

2. The Family is an institution with its own Constitution and Authority.

From the debates on the Constitution 2 June 1937

*“Mr. McDermot: There is one question I would like to put to the President: what is the meaning of sub-section 2° of Section 1: “The State, therefore, guarantees to protect the Family in its constitution and authority...” What does “authority” mean? Does it mean the authority of the head of the Family over the Family? If it does not mean that, what alternative meaning is there?”*

*The President de Valera: The President: It is the authority of the heads of the Family over their children, their right to look after their education and not to be interfered with by another authority in the State except for reasons that would be mentioned; that is to say where there was failure or neglect on their part to provide for the children, or, from the social point of view, failure to see that the children received a proper education. The Family have rights antecedent to and superior to all positive law, and any interference with the authority of the head of the Family will have to be justified on certain grounds. That is the authority that is referred to there.”*

3. The only grounds on which the State can interfere with the Authority of the Family are stated in and controlled by Article 42.5.

*42.5 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 Family has inalienable and imprescriptible rights derived from God which can not be invaded by the State.

From the debates on the Constitution 2 June 1937

*The President: ... The inalienable and imprescriptible rights are the rights to look after the maintenance and control of the children .... We want to stress the fact that these inalienable and imprescriptible rights cannot be invaded by the State.*

*Article 41 put and agreed to.*

4. The Family's Constitution is hierarchical - this is essential for the protection of the Family from external forces . It has by necessity, like all institutions, a hierarchical structure for its efficient management, its safety in emergencies and for its general well-being.

In England in 1925 the Lord Chancellor made clear the opposition to the idea of joint equal guardianship, which the promoters of a Bill had put forward, and the English Parliament rejected the idea as being detrimental to Married Family harmony

Objections to equal guardianship by parents were that the,

*“net result of the Bill would be to substitute a legal for a domestic forum in every household ...'that to put Mothers on an equal footing with Fathers in all matters concerning their children would simply produce deadlock'; that although woman 'has almost the same status as man, she has not altogether the same status because it is necessary to preserve the Family as a unit and if you have a unit you must have a head.”*

In 1937 the head of the Family institution was acknowledged to be the Father. His Authority and position was recognised by the courts in the matter of N.P. an infant [1943] 78 I.L.T.R. 32[HE]

*“the Father is the head of the household and is liable to contribute to the cost of maintenance of his Wife and Family. [and in the matter of custody] if the circumstances show that he has not disentitled himself I rather lean in favour of conceding to him a greater claim than to the Mother”*

The Constitution of the Family has not changed and can only be changed by referendum of the people. AT THE PRESENT DAY THE FATHER IS HELD TO BE HEAD OF THE FAMILY.

5. In exercising his Authority in his position as head of the Family he must respect his Wife's rights and implement any agreement he makes with her regarding the children's education.

6. Authority within the Family is transferred hierarchically, under certain circumstances (such as death or failure), from the Father to the Mother and so on through the available relatives.

7. Despite the father being recognised in the Constitution as head of the family and as having authority this is not made explicit in the Guardianship of Infants Act, 1964 so that it might assist him to exercise his duty to maintain and protect his Family. Instead the courts use this position against him.

## Legislation under the English Crown

Prior to the enactment of the Constitution the Irish people were subjects of the English monarchs. Under English Law the Father's authority had become almost absolute over the centuries and Mothers had very little, if any, rights with regard to their children. The Father's position was such that even the royal courts of chancery could not override his authority unless he had disentitled himself.

The Equity jurisdiction of the Royal Courts of Chancery was derived from the prerogative of the Crown to act as 'supreme parent' to all children. This position permitted the King's court to interfere with the Father's authority to resolve Family disputes. It evolved solely and only out of the absence of Mothers' rights under English law.

Even under the Equity jurisdiction the Royal Court could not supersede the Father's authority without him first disentitling himself to his children and a set of grounds for disentanglement were established. (*see discussion of these on page 18*)

Hence the Equity Jurisdiction in Custody and Guardianship matters has three requirements.

1. That the court has a Crown prerogative as 'super parent' to its child subjects.
2. That the Mother has no rights in Law.
3. That the court first find the Father has disentitled himself to his absolute authority.

In 1937 this entire situation ended with the enactment of Bunreacht Na hÉireann.

The Implications of the new situation were:

1. The State was released from its Crown jurisdiction and could henceforth serve the people, the new Sovereign Power, in place of the monarchy and was obliged to promote the common good by vindicating the rights of its new Irish citizens.
2. Such was the authority of the new Family as recognised in the Constitution that the State was henceforth made to pledge itself not to interfere with the Family and to protect it from attack.
3. Only under exceptional circumstances as laid down in the Constitution would the State be called upon to endeavour to replace the position of the parents in a child's life.
4. Under the Constitution Irish Mothers, in contrast with Mothers in the past, are now entitled to extensive rights.

Under this new system of government and Sovereignty it would be reasonable to expect that legislation relating to the law of the Family would develop on the basis of provisions enabling the vindication of parental rights. For example it would be reasonable to assume that a Mother's rights could be easily vindicated in a marital dispute by simply regulating the Father's authority by way of injunction. It would very rarely appear to be necessary for the State to entirely supersede a Father's authority in order to resolve a dispute.

Similarly a Father's authority could be protected by injunctions where necessary against his Wife.

A system such as this would ensure that justice prevailed and that the welfare of the children would continue to be found within the Family and that the common good would be preserved and protected.

## **Development of the Law of the Family 1937 - 1963**

In dramatic contrast to the aforementioned position the published case law reveals that the Irish courts dealt with the new arrangement very tentatively, perhaps due to the precariousness and uncertainty of the prevailing political situation.

The Courts appear to have been preoccupied with establishing the grounds on which Parental Authority could be superseded and case law slowly established the circumstances under which the State could interfere with the Family. But the vindication of rights of parents to protect their children is extremely low on the agenda and is in fact, as a concept, almost absent.

The courts established the circumstances under which a Father's authority ought be transferred to the Mother, or in the case where there was only one parent living, where the State might supersede that parent's authority and place the children under the authority of a third party.

All these decisions had been grounded upon the exceptional circumstances laid down by article 42.5 of the Constitution.

*“where special disturbing elements exist, which involve the risk of moral or material injury to the child, such as the disturbance of religious convictions or of settled affections, or the endurance of hardship or destitution with a parent, as contrasted with solid advantages offered elsewhere.” O'Hara, 1900 Fitzgibbon L.J.*

The TEST applied for intervention in all these cases was not, as has been claimed, that 'differences' between the Father and Mother had developed which jeopardised the child's welfare. This is just a statement of the facts.

The Test applied was – whether or not the parent entitled to exercise authority over the child (that it is the head of the Family) had conducted themselves in such a manner so as to satisfy the court that this was an exceptional case that required the transfer of that authority to the other parent or a third party.

Such exceptional case includes a violation of an agreement with the other parent regarding the religious education of the child – such a violation would be held to disturb the convictions of the child and would be judged to be a moral failure on behalf of the parents.

**The law certainly did not develop on the basis of injunctions against parents who have violated the rights of the other spouse which accounts for almost all private Family Law cases today.**

In our opinion, in Custody cases involving parents and their minor children, the State's proper concern can only be - firstly to establish whether or not the case is an exceptional one that requires {for reasons of the child's welfare laid down in Article 42.5} the transfer of authority away from the parent entitled to exercise authority over the children.

Where those grounds are found not to exist the State is not entitled to act in opposition to the parental right so it must next consider if it is necessary to

vindicate the rights of one of the parents if the other parent is violating those rights.

This appears to us to be the settled position prior to the enactment of the Guardianship of Infants Act, 1964.

## **The Guardianship of Infants Act**

In 1963 something went terribly wrong.

Charles Haughey, then Minister for Justice, introduced a new Bill called the Guardianship of Infants Bill.

The first and inexplicable feature of this bill is that it was introduced as a consolidation of the five British statutes that amended the English Law of Custody and Guardianship that had developed under the English monarchy in the previous three hundred years prior to the creation of the Republic.

The English Law had developed on the principle that Mothers had no rights and on the principal that the people were subject to the authority of a reigning monarch. These principles are obviously redundant in the modern Republic of Ireland.

An analysis of the Act and debates reveals that it promotes itself by claiming to deal with two burning feminist issues of the time.

1. The demand from women for 'equality' with men in every aspect of life. In this case the framers of the Act sought to appease women by pretending to provide equality between Husbands and Wives. Minister Haughey claimed in introducing the Act that,

*“the Bill proposes to give statutory effect to the legal principle that the Mother and Father of a child shall have equal rights to Guardianship and Custody”.*

In fact it does not do this at all.

2. The problem of illegitimate children, their mothers and the scandal of children held in State-approved institutions or disposed of by those institutions.

The Act relieved the State of their own problem by placing these children in the sole unmonitored care of their unmarried mothers and provided a mechanism by which these women might reclaim their children from the institutions. These measures, which were intended at the time to get the State 'off the hook' of guilt, in fact, whether on purpose or not, established the female-headed household in Ireland and created the enormous problems we are faced with today.

Apart from these provisions to look after unmarried women this Act provides no mechanism for Married parents to vindicate their rights no matter what their circumstances. Nor is there any reference to Article 42.5 that controls the State's Jurisdiction in Family matters whereas the Oireachtas had a clear expectation that the Act would, not only be implemented in the High Court only, but that it would also be implemented according to Constitutional Law.

*Mr. M.J. O'Higgins: “The Minister has expressed the fear that this Bill might be accused of being legislation for the abnormal situation or the broken home. That might be but in some respects it is the kind of legislation which is possibly likely to give rise to Family disputes rather than to settle them. This is a subject in respect of which the Minister and the House generally must step*

rather gingerly having regard to the constitutional provisions which are there. The Minister has referred to some of those constitutional provisions and I am glad he has because it shows that the matter has been under examination in his Department.

The difficulty I see with regard to this Bill and with regard to any law on this subject, having regard to the provisions of the Constitution, is that it is difficult to see that we can unequivocally declare that the welfare of the child must be of first and paramount importance. I am not saying that that should not be the position but what I have in mind is that there are very definite provisions in the Constitution which seem to me to provide that the Family unit as a whole, not the individual component parts of that unit, must be regarded as of first and paramount importance.

The Minister has referred to Article 42 of the Constitution. He quoted Article 42.1 which states:

*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.*

In dealing with the Bill and, it seems to me to be clear from the terms of the Bill itself, the emphasis is laid rather on trying to secure in the case of children that the parents will do their duty but this Article of the Constitution which was quoted by the Minister refers not only to the duty of the parents but also to their inalienable right. I would suggest to the Minister that he must be very careful to see in relation to this Bill whether or not it is open to challenge on the grounds of the very Article of the Constitution which he himself quoted ...

I do, as I say, recognise that there is certain authority being vested in the courts under this Bill but Article 42. 5 of the Constitution does provide that only in exceptional cases can the State step in. It reads:

*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*

*In other words, the degree of failure under that article of the Constitution is clearly defined and very limited and restrictive in character. Where the parents for physical or moral reasons, and only 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 to the natural and imprescriptible rights of the child. As I say, the class of cases in which the State can step in, as it is to some degree stepping in under this Bill, is very limited and confined in character.*  
*Debates of Guardianship of Infants Bill, 1963, 11 July, 1963*

The section of the Guardianship of Infants Act, 1964 that is used almost exclusively since its implementation has been Section 11. Inexplicably there is no record of any debate on the significance of this section in the Oireachtas records.

Combined with the rest of the Act this section re-enacts the Equity law of England that was in existence before the Constitution superseded it. This unthinkable retrogressive step ignores the whole existence of Mother's rights, Father's rights, the restrictions on State interference, the State's obligation to vindicate parental rights recognised in the Constitution and all of the established principles that had developed in case law over the previous quarter century!

Far from giving equal rights of Custody to Mothers, as claimed by Mr Haughey,

**SECTION 11.2 A IS A PROVISION SOLELY FOR MARRIED MOTHERS TO APPLY FOR CUSTODY.**

This subsection from the 1886 Guardianship of Infants Act is founded on the principle that Mothers have no rights of Custody and that the State has a Crown prerogative to grant and regulate Custody rights to Irish Married Mothers.

It gives statutory effect to the legal principle that Fathers hold the custody of the children of the Marriage by re-enacting Section 5 of the 1886 Act which also has the effect of enacting the entire rules of equity which require that the Father be disentitled to his children before the State can resolve any Family disputes.

The Equity rules of the Royal Courts of England enacted in this subsection of the Act were declared as marginal notes in the published Bill and it is apparent from the Explanatory Memorandum that Mothers and Fathers do not have Joint Custody as is often claimed.

However the published Act omits these marginal notes which are essential for any interpretation of the Act by the Courts or court users. As a result the people have been kept in ignorance by this concealment of the true nature of this foundation stone of the so-called Family Law Acts.

The whole legal system has become embroiled in Mr Haughey's deception and to this day Family Law textbooks, the Legal Aid Board's explanatory leaflets and the government information website continue to attempt to deceive the public even though everyone knows that there is something terribly wrong going on in the secret Family Law courts.

In an attempt to hide what would have by now become glaringly obvious as a fraud and a flagrant violation of Constitutional rights if the Act was used in isolation, the Guardianship of Infants Act, 1964 has been incorporated into

many other Family Law acts that deal with the welfare of children, such as Judicial Separation Act, Divorce Act and Domestic Violence act.

Where custody issues arise under section 11, which accounts for almost every case, this dispute resolution mechanism is only available to married Mothers.

**MARRIED FATHERS CAN NOT USE THIS PROVISION AND HAVE NO ALTERNATIVE PROCESS AVAILABLE TO THEM.**

Under section 11 the Officers of the Court set out to 'establish' the grounds that the Judge requires to make a finding that the Father is disentitled and so set in motion his Crown jurisdiction (authorised by Mr Haughey's government in 1963) to regulate the whole Family's affairs.

The Victorian grounds under Equity that 'disentitle' a Father appear to be as follows:

1. Unfitness in character or conduct
2. Failure to provide support for his children. Fathers are advised to pay 'maintenance' even where their Wives have deserted them and removed the children from the family home without his consent and this payment, by way of his continuation to perform his Constitutional duty, is taken as a 'confession' by the court that the father has 'failed' to provide support.
3. Lack of means to support his children. Being unemployed disentitles a father or even having inadvertently 'failed' to provide a deserting Wife with what she claims for herself and for the children.
4. By agreement between the Father and third parties if the third parties have acted so that revocation would prejudice the child. This means that a deserted Father asking for assistance risks permanently losing his children.
5. If the Father intended to leave the jurisdiction with the child. Possession of a passport or passports for the children will be construed as intention to leave the jurisdiction.

## **The secret effect of the Rules of Equity**

A study of current Family Law legislation will reveal that it is enacted in apparently gender-neutral terms. For example the Non-fatal Offences Against the Person Act; 1997, The Domestic Violence Act, 1996; The Family Law (Maintenance of Spouses and Children Act), 1976; The Lone Parent Allowance Scheme.

Although these appear on the face of it to be equally applicable to men and women, when a married Father becomes involved with any of these pieces of legislation, and they interact with the secret laws of Equity used in the Family Courts, it will be seen that this automatically triggers the empowerment of the State to acquire jurisdiction and over-ride his authority.

The vast structure of Irish Family Law is based almost solely on Section 11 of the Guardianship of Infants Act, 1964.

We have noted that although the Father is recognised in the Constitution as head of the Family and as having authority this is not made explicit in the Guardianship of Infants Act, 1964 so that it might assist him to exercise his duty to maintain and protect his Family.

Instead the courts use this position against him.

Thus the position of a Married Father vested with the authority to protect his Family from the State puts him in the front line of attack from the very State that is pledged in the Constitution to not interfere with his Family and protect his Marriage from attack.

The result of these secret laws implemented in secret courts, which persecute good men and deprive honest women of their real rights, is that thousands upon thousands of Families have been dismantled without any regard to their Constitutional rights, thousands of children have been deprived of the love, protection and guidance of their Fathers, who themselves have been stripped of their children, their homes, condemned to destitution, debt-bonded slavery and driven to desperate acts – many taking their own lives in utter despair.

This is an incalculable atrocity perpetrated upon the Irish nation.

## **The People must act**

Whereas in the USA and most other republics where the State education system ensures that every child studies their Constitution and in fact can recite chunks of it off by heart, the State in Ireland has ensured its citizens have been kept in the dark about the content and purpose of the Constitution.

By this neglect of the State's duty the people are unaware that they hold the Sovereign Power and that the Constitution is specifically in place to protect their freedom and to keep in check the otherwise unfettered tyranny of a totalitarian State.

Furthermore the State broadcasting station, Radio Telefis Éireann refuses to acknowledge its Constitutional commitments to the Common Good and continues to spread its anti-Family, anti-faith and anti-freedom propaganda unabated by the mounting complaints from the people.

Cloaked by the cover of the in-camera rule parents are not being permitted in the courts to vindicate their Constitutional rights and prevent interference by the State into their Families and private lives.

On the basis of the overwhelming evidence it can not be denied that the State machine detests the Constitution.

It hates the protections that it gives the people.

It vehemently resents the restrictions and obligations that the Constitution imposes upon it .

The conclusion that must be drawn from the evidence is that the State is hell-bent on destroying the very Constitution that created it.

The people must resist this by working together, by educating themselves as to the power that the Constitution gives them and by standing up against the State machine when their conscience guides them to do what is right.

In these harsh times we need to remind ourselves of and find solace in the preamble to the Constitution

*“In the Name of the Most Holy Trinity, from Whom is all authority and to Whom, as our final end, all actions both of men and States must be referred,*

*We, the people of Éire, Humbly acknowledging all our obligations to our Divine Lord, Jesus Christ,*

*Who sustained our Fathers through centuries of trial,*

*Gratefully remembering their heroic and unremitting struggle to regain the rightful independence of our Nation,*

*And seeking to promote the common good, with due observance of Prudence, Justice and Charity, so that the dignity and freedom of the individual may be assured, true social order attained, the unity*

*of our country restored, and concord established with other nations,*

*Do hereby adopt, enact, and give to ourselves this Constitution.”*

Our rallying cry must be

“We shall not permit our Constitution to be stolen from us!”

# Parental Rights and Marriage in Ireland and the Constitutional Review, November 2004

**An Analysis – National Men’s Council of Ireland**



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## **The Personal has become Political**

### **What was Private is now Public**

One of the very serious difficulties that has been experienced by commentators on these important matters has been the handicap of political correctness whereby a self-selected 'consensus' within the media, the State and academia has apparently created concepts, that we are forced to use, which give meanings to words that are in conflict with both their original dictionary definitions and with common sense.

By so doing the activist judicial and executive branches of the State have developed an air of legitimacy to their corruption of the status quo.

Nowhere is this seen more overt and virulent than in matters concerning personal relationships.

We are pleased to affirm that such political correctness is dead and readers of this analysis will note herein the return to the use of plain language. Moreover this report recognises the resurgence in the use of rationality in debating and analysing problems that confound the public in their concern for and striving for the common good.

This renaissance is to be welcomed by all family men and women of Ireland and everywhere within the global community where civilised society intends to flourish.

The essence of a free society and test of it is the degree of privacy afforded to its citizens into areas where the State has no jurisdiction to interfere. For the past two thousand years and beyond that boundary between what is private and what is public has been delineated by the institution of Marriage. The State has no right to transgress the threshold that exists in law between matters that occur within the Married Family and so are private and those that it must confine itself to which are matters of public interest. The State can only legitimately interfere where matters within the Family themselves transgress the boundary by falling foul of public laws - i.e. by the committing of crimes. This is why the National Men's Council of Ireland have always urged that any alleged criminal assault or criminal abuse within the Family must be treated as such.

This report is a commentary on the ways and means employed by the State in continually attempting to step over that line of privacy and in fact shows how in recent years it has sought to eradicate that boundary all together by fomenting an uprising between mothers and fathers, a virtual war between men and women, that they hoped would lead to a call to abolish Marriage and give them full jurisdiction to interfere with everyone's lives.

In our Preliminary Report on the Family and Marriage in Ireland in 2003, we explored the reality of family life for those Families that had been impacted upon by current state social policy.

One of the strongest points arising out of people's response to that report was their alarm at reading how the reforms of Family Law, all led to a de-stabilisation of Marriage, and had sprung, not from a popular demand from the people or their public representatives, but from an undemocratic source within the Judicial and Executive branches of the State.

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 somehow was continued from one government to the next irrespective of their politics.

On 14 October 2004 the Government issued a press release declaring that Taoiseach Ahern had ordered a review of the Constitution because he claimed that the Constitution needs to be changed "to give better rights to the Family which he says has undergone a major transformation in the past 67 years"

He wants to know "what changes need to be made to Eamon De Valera's Constitution to bring it in line with modern Ireland".

From our current analysis of the situation we can confirm that the Family has indeed been transformed. What our analysis does is to explain why the Family has been transformed; how the Family was transformed and who did it.

In the Government's press release they verify the success of the state-funded feral breeding programme which can now boast figures showing that one third of all children are now born outside Marriage. In Limerick their success rate is up to 56%.

This confirms the findings identified in our report titled, "Brides of the State" which exposed the way that the State has taken the hand of women in 'Marriage' away from the next generation of potential husbands.

The government's press release further declares the establishment of a state divorce programme for women with its guarantees of immunity from penalty plus benefits for transgressors of the Marriage contract.

Where we would disagree with the Government's press release is that we found in a straw poll undertaken in city and rural areas that, almost universally, the word "family" in modern Ireland is understood to mean the Married Family, whereas the Department of Social & Family Affairs' "Changing the Family" Circus claims a dramatical change in the common usage of this word.

The aspect we find most incredulous in the Government's press release is the announcement that the Constitution needs to be changed because in modern Ireland women's social function has changed such that nowadays women have no desire to have a life within the home! In our experience the place that a

woman most loves is her home! We are given to wonder what sort of women the Government are associating with?

Similarly one has to wonder what contortions to our Constitution, which gives expression to moral probity, the government expects to initiate in order to accommodate immoral acts that are an offence against the natural law?

The only encouraging aspect of this press release is the Government's honesty at finally admitting that Ireland's signatory of the United Nations Convention on the Rights of the Child in 1992 was repugnant to the Constitution.

The Taoiseach in ordering a review of the Constitution "to give better rights to the Family ... and improve the rights of Mothers, Fathers and children" obviously fails to understand the purpose of the Family provisions of the Constitution.

Article 41 of Bunreacht Na hÉireann recognises that the Family has rights and these are derived from the Natural Law. It is beyond the ability of the State or the People to change or prescribe Natural Law.

The institution of the Family has by necessity, like all institutions, a hierarchical structure for its efficient management, its safety in emergencies and for its general well-being.

The Constitution in Article 41 recognises this and holds the Father, by way of a trust, as the head of and accountable for the Family to the State. This is his social function within the Family.

*... at the time when the Constitution was enacted, as case law illustrates, the father had a dominant authority in the family. It was taken for granted that he would provide for the family and lead the family.*  
*Supreme Ct. Judgement, Mrs. Susan Denham, 12 July 2001. Kathryn Sinnott case*

The Mother's social function within the Family, as recognised in Article 41, is to nurture the children, safe in the protective Custody of her Husband.

The State's function is to honour its guarantee to protect this structure.

Article 41 in fact sets the boundary between the Family's own constitution and authority and the authority of the State - between what is private - where citizens have freedom of choice and autonomy - and what is public - where the State can regulate a person's behaviour.

Any trespass beyond this boundary and interference by the State in the parent's natural right to raise their children in accordance with their conscience and their means, and Ireland ceases to be a free country.

Sadly this report shows that this is already happening by the State's subversion of the Law of the Family and by the implementation of the United Nations Convention on the Rights of the Child and the State's claim that it, and not the Family, has the right to decide upon what is in the "child's best interests".

The state's assault on the constitution and law of the Family means that as men we find we can no longer lead and protect our Families, nor even have an expectation of having a Family life.

Marriage and the Law of the Family ascribes the boundary between the private and the public – between the freedom of choice and state regulation.

The State is perpetually attempting to cross that threshold.

The people, having rid themselves of a tyrannical rule, gave to themselves a Constitution which imposes on the Irish State the duty of guarding that boundary.

What the State is proposing now is that the people relieve the State of this duty by signing up to a new European Constitution which overrides the Irish Constitution and does not protect Natural Marriage and the Law of the Family that derives from it.

Nor does it recognise the Natural law that the welfare of children is to be found exclusively within the Family.

In the State promoting and encouraging the people to accept and endorse the concept of unnatural marriages that legitimise unnatural practices it can only be intending to debase and degrade Natural marriage and the Family so that Marriage will no longer be respected as the basis of social order and will cease to be a moral institution and will have become an immoral institution.

Having regard to the Government's latest investigation into possible changes to the Constitution of Ireland, clearly what is required by way of an improvement is that the constitution and authority of the Family be better protected from the unfettered activism of the Judiciary and from the unregulated conduct of the Executive in the implementation of social policies and the signing of treaties and conventions which are repugnant to the Constitution.

The conclusion that we must come to after compiling this report is that any suggestion that the State should, as a general principle, be entrusted with our children's lives or 'best interests' should be dismissed.

#### *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.*

*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.*

*2 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.*

*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.*

## **Social functions of parents and the Constitution of the Married Family**

1. Regarding the Judgement delivered by Murray J. presently Chief Justice and Chairman of the Courts Service, in the Supreme Court, R.v R. and the State, April 2 2004, 436SS.

This case was specifically brought in order to clarify the jurisdiction of the State in Custody matters. Sadly the judgement has deepened our concerns that the State is set on undermining our Constitutional position as parents.

The plaintiff, a plumber and Husband, unimpeached Father of five children, asked the Court to respect his position as the natural Guardian of the children and honour his duty as their Protective Custodian.

The foremost purpose of Marriage is to secure a position for the Father in the Family through which he is assured, in Law, of his ability to protect his Family. One could even say that this is the function of the institution of Marriage.

*“A man who wants a Family must find a woman who will promise him her sexual loyalty {through Marriage} and he must live in a society which will guarantee this loyalty by assuring him that he cannot be deprived of his children at her pleasure.*

*The stability of society requires that males shall be induced to accept responsibility for the support of two-parent families and the socialising of children within them.*

*But in the feminist scenario, where women are “unchained,” the Marriage contract gives men no reproductive rights and when the contract is annulled the Law rivets chains on him.”*

*THE CASE FOR FATHER CUSTODY by Daniel Amneus, Ph.D.; pp 316*

This position was clearly assigned him in the Bunreacht Na hÉireann. In 1937, the framers of the Constitution, in particular Eamon De Valera, saw that the downfall of civilised societies, especially those in the UK and the USA, was being caused by the breakdown of Marriage, i.e. the erosion of the Father's position in the Married Family.

As can be seen by recent events in the USA this cycle of the breakdown of society is characteristically followed by a resurgence in Moral Values and a return to a stable society based on Marriage. The framers of the Constitution saw, in their own time, the great threat of social degradation and were determined to use the opportunity granted to them to protect the Common Good.

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***A man who wants a Family must find a woman who will promise him her sexual loyalty through Marriage***

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***Eamon De Valera saw that the downfall of civilised societies, was being caused by the breakdown of Marriage, i.e. the erosion of the Father's position in the Family.***

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In Common Law countries such as the UK and USA the problem noted by Amneus, above was rooted in the claim that the King had the Crown prerogative, exercised in his Chancery Court, to interfere with a Father's ability to protect his children. This has been exploited to the utmost in these jurisdictions by subversives within the executive.

This was in fact a position the King had previously entirely surrendered in mid 17th Century after over a hundred years of petitioning parliament, when statute placed children fully and permanently in the protective Custody of their natural guardian, their Father, in exchange for the payment of a tax, which the people honoured.

Prior to 1660, in what had been the scourge of Tudor England, the King and his Court had been involved in asset stripping of families and their inheritance, by virtue of the King's claim that he had ultimate authority over all children.

The King of England and his Court soon reneged on this treaty with the people and by the mid nineteenth century were again usurping the position of the Father by permitting a Mother to petition the court for the position of the "protector" of the children by seeking to become their Custodian. This invasion of Married Family autonomy by the Courts of Equity was fully recognised in the well-known Tilson case of 1951.

When the people of Ireland claimed their independence from the Crown the State ceased to have the Crown prerogative to interfere in the Married Family. The Irish people put in place a written Constitution guaranteeing their rights and protections so that they would never again be ruled by a tyrant.

#### *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.*

*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.*

In Murray's Supreme Court Judgement, R. v R., he States that the Constitution,

*"clearly recognise[s] the role of both parents in the welfare of the children".*

This is where the Judgement fails to clarify the specific question that was put to the court. No one doubts that both parents have a role. The plaintiff required that the court qualified those roles in the context of the Constitution of the Married Family.

Bunreacht Na hÉireann deals squarely with the issue of Custody by making it quite clear that the Mother's Natural and Social Function is that of 'nurturer in the home' and specifies that a Mother can not be expected to fulfil the role of

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***Prior to 1660, in what had been the scourge of Tudor England, the King and his Court had been involved in asset stripping of families and their inheritance, by virtue of the King's claim that he had ultimate authority over all children.***

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***Bunreacht Na hÉireann deals squarely with the issue of Custody by making it quite clear that the Mother's Natural and Social Function is that of 'nurturer in the home' and specifies that a Mother can not be expected to fulfil the role of a Father by being imposed upon to protect the Family by providing an income for the Family to the detriment of her vital role in the home.***

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a Father by being imposed upon to protect the Married Family by providing an income for the Married Family to the detriment of her vital role in the home.

Even a cursory glance at the statute and case Law will reveal a plethora of examples where the married Father is bound to his duty as provider – the maintenance of the household being one of the elemental duties demanded in Law of him in his role as Protector of the Married Family and Custodian of the children.

It is plain for everyone to see that the Irish State has entirely failed the Married Family in its legislative and Judicial Constitutional function as Guardian of the Common Good.

In dramatic contrast to the way that a Husband is treated if he defaults in his Marriage the State fails the Married Family by:

- (a) neither providing a remedy for Husbands where their wives fail in their duties, nor any deterrents for wives who choose to dismantle their Married Family for personal gain. The State, through the reform of Family Law under current statute and social welfare policy, in fact assists and encourages deserting wives to benefit from their own wrong-doing.

and (b) by exercising, contrary to the established ethos of the Irish Republic, the prerogative of the English Crown through Section 11. 2(a) of the Guardianship of Infants Act, 1964-1997 which permits a Mother to seek the Custodial position on the spurious claim that since a Mother has rights and duties in the education and welfare of the children she therefore holds an equitable interest in the full Custody of the children and that the State can thus exercise the equitable jurisdiction of the former Courts of Chancery. The State then enjoins with the Mother to overthrow the Father, as head of the Married Family, without the Constitutional requirement of the Father failing morally or physically in his duty.

(As a further affront to justice the current legislative provision is a misuse of the Chancery rules which themselves actually require an examination of the conduct of the parents – an element entirely absent from the wording of the Guardianship of Infants Act, 1964.)

The Married Father's duty to Protect and Maintain the children of his Marriage is the corollary of his Lawful Custody of them and is clearly enshrined in the Irish Constitution where it pledges to protect his Marriage and therefore defend his Right of Custody which flows from his Marriage.

The Supreme Court accepts that a Father is the sole Custodian of his children, and that this position is given legislative effect in the Guardianship of Infants Act, 1964.

The dependency and vulnerability of Mothers is fully recognised by the Constitution and there can be no question of imposing on them the full Custodial duties that are the sole responsibility of Husbands.

The Supreme Court judgement that claims Jurisdiction to remove Custody from an unimpeached Husband and award it to a wife appears to be at odds with any rational understanding of the Constitution of Ireland.

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***... the State fails the Family by: neither providing a remedy for Husbands where their wives fail in their duties, nor any deterrents for wives who choose to dismantle their Family for personal gain. The reform of Family Law under current statute and social welfare policy, in fact assists and encourages deserting wives to benefit from their own wrong-doing.***

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The proposition made by Murray that the Law of Ireland does not “make any provision for giving a superior status or rights to the Father over the Mother” was considered by Parliament in England as long ago as 1925. Then the Lord Chancellor made clear the opposition to the idea of joint guardianship, which the promoters of a Bill had put forward, and the English Parliament rejected the idea as being detrimental to Married Family harmony

*Objections to equal guardianship by parents were that the 'net result of the Bill would be to substitute a legal for a domestic forum in every household 'that to put Mothers on an equal footing with Fathers in all matters concerning their children would simply produce deadlock'; that although woman 'has almost the same status as man, she has not altogether the same status because it is necessary to preserve the Family as a unit and if you have a unit you must have a head.*

If, as is claimed in the Murray Judgement, that the Constitution and the Law of Ireland do not “make any provision for giving a superior status or rights to the Father over the Mother” in the matter of Custody, why then should the Mother be the only parent required to petition a Court to be “granted” the Custody of her children?

This position of Husbands as head of the Married Family and the position in Law of his Wife and children as his dependents is outlined in the essay, "The constitutional protection of parental rights" by William Duncan as part of the Report of the Constitutional Review Group, 1996. In it he States,

*“... State reluctance to intervene in Family life leaves the way open for other dominant forces within and without the Family, to shape or preserve a particular concept of Family relations. This argument is usually addressed to the dominant position of men and their ability to exercise control over subordinate or dependent women and children within the Family. This matter has been discussed elsewhere.”*

He refers the reader to Katherine O'Donovan, Senior Lecturer in Law at the University of Kent, where in her book, "Sexual Divisions in Law", her final conclusion after a rigorous exposition of the subject is,

*“Within the modern bureaucratic State the nuclear Family of Husband, Wife and their children is treated as a unit. The head and public representative of this unit is the Husband, whose Wife and children are legally constituted his dependents, not only economically but also because they are subject to his orders. His role is to control what goes on within the Family in private.”*

By introducing, in Section 6 of the Guardianship of Infants Act, 1964

*Rights of parents to guardianship.*

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***If, as is claimed in the Murray Judgement, that the Constitution and the Law of Ireland do not “make any provision for giving a superior status or rights to the Father over the Mother” in the matter of Custody, why then should the Mother be the only parent required to petition a Court to be “granted” the Custody of her children?***

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***“The constitutional protection of parental rights” by William Duncan as part of the Report of the Constitutional Review Group, 1996 positions Husbands as head of the Family and the position in Law of his Wife and children as his dependents***

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*6.—(1) The Father and Mother of an infant shall be guardians of the infant jointly*

is Justice Murray asserting that Mothers and Fathers, as a consequence have an equal status and that one must infer that the legislators who enacted this provision were so foolish, incompetent or subversive as to purposely create deadlock and drive families into the courts?

Plainly the intention of this provision, as Stated by the Minister of Justice and in the Explanatory Memorandum and recognised by numerous eminent judges is that it gives statutory effect to the joint powers and duties held by the Mother and the Father in regard to the education of their children and in no way disturbs the Husband's position as head of the Family and Sole Custodian of his children.

It further makes a nonsense of the claim that the legislators had intended by section 6 to provide for the Mother and Father to have equal status whilst at the same time enacting in section 11.2 a provision for the Mother only to apply for Custody.

Not only is the exercise of the Chancery Jurisdiction incompatible with the ethos of the Irish Republican Constitution but in order for the courts to be able to illegally use it they must, of necessity, act with a cruel and invidious discrimination against Fathers by filtering out applications under section 11 from Fathers because only a Mother's application can invoke this claimed jurisdiction.

The Mother, contrary to what has been claimed, holds no equitable interest in the Custody of the children of the married Family. Within the Guardianship of Infants Act, 1964 a definition of the term "welfare" is used in an attempt to cloud and confuse the very separate issues of "Education" and "Custody" and the different social functions of the Mother and the Father

*Guardianship of Infants Act, 1964 Definitions. Section 2.*

*In this Act, except where the context otherwise requires "welfare", in relation to an infant, comprises the religious and moral, intellectual, physical and social welfare of the infant.*

*ARTICLE 42*

*1 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.*

The trick that the State seeks to employ is to suggest that the phrase "the religious and moral, intellectual, physical and social education" is interchangeable with the term "welfare"

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***Not only is the exercise of the Chancery Jurisdiction incompatible with the ethos of the Irish Republican Constitution but in order for the courts to be able to illegally use it they must, of necessity, act with a cruel and invidious discrimination against Fathers by filtering out applications under section 11 from Fathers because only a Mother's application can invoke this claimed jurisdiction.***

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Whereas both parents do indeed have a Constitutional equitable interest in the education of their children, this deception claims that both parents have an equitable interest in the Custody of their children.

The purpose of confusing “education” and “welfare” is to draw the public into the belief that their parental rights are described in their entirety within article 42 and therefore, providing the State does not interfere with a parent’s right to be involved in the education of their children (in the narrow sense), then the State is not seen to be violating the inalienable parental rights enshrined in the Constitution. Thereby the State claims that interfering with the Custody of the children is not in fact superseding the parental right and not outside of its authority.

Once again we see how the State has gone to enormous lengths specifically to camouflage the reality that the Father is held, in Law, as the head of the Family and thus as the Custodial parent.

This can be seen quite clearly from the State’s position where they promote the myth of “Joint Custody” through the government-funded Legal Aid Board in their ‘Leaflet No.2 on General Family Law’ that married parents have the Joint Custody of their children. Similarly the Government information website, www.oasis.ie and the Department of Social Welfare and legal experts who teach Law students constantly reiterate this claim.

No more blatantly is this deception illustrated than in the Foreword written by Justice Brian Walsh to “A Casebook On Irish Family Law” By William Binchy where he states,

*“The development of Family Law in Ireland must be seen against the background of the social moral and economic conditions prevailing in Ireland. But, most importantly, the moral concepts which are given the force of Law by the Constitution play and have played a very important part in the development of Family Law as many of the cases in this book illustrate. To mention but a few, constitutional interpretation established the equality of parents and distinguished between the natural guardianship and the legal custody of children.”*

This “constitutional interpretation” by the Honourable Brian Walsh was displayed in his own Supreme Court judgement in B. v B.; 1970 when he dealt with section 11.3 of the Guardianship of Infants Act (1964) by denying the express purpose of the legislation.

The Explanatory Memorandum to the Guardianship of Infants Act (1964) describes the position in 1963 prior to the implementation of the Act:

*“At present, a Mother cannot seek the custody of her children without first leaving the Family home. An order under subsection (2) will not be binding while the parents reside together and will cease to have effect altogether if the parents live together for 3 months after it is made.” It added “the proposed subsection 11(3)*

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*enables the court to make the necessary orders even where the parents reside together."*

However, Walsh J. Stated:

*"it is to be noted that it is only in the instance where they [Mother and Father] are not residing together that the question of the custody of the infant may be made the subject of an order."*

If the Honourable Judge were to have interpreted Subsection (3) in its proper enacted manner according to the Explanatory Memorandum the general public would have been left in no doubt that the Husband alone has the real Lawful Custody of the children and the Mother is obliged to apply for it.

The effect of this ruling in the Supreme Court has cultivated the spread of confusion and misunderstanding over the true meaning of the term "Custody", to the extent that it is now belittled to mean "residency" or even just "possession".

Court orders granting "Custody" to any person are in fact 'conditional' orders on that person, ie. the Court itself has seized control of the Family and the State has taken over from the Husband as head of the Family and manager of the Family's affairs.

The State retains authority as supervisor in place of him. The Family's freedom and independence enjoyed under the Father, once taken over by the State, is not relinquished until the children have reached adulthood.

The date of the Tilson case in 1951 is well worthy of note - the matter arising almost immediately after the final severing of sovereignty with the British Crown on the passing of the Republic of Ireland Act, 1948.

This Act removed any last vestiges with which the Irish State might claim a right to continue to exercise the Crown prerogative through Chancery and the Courts and the Judiciary were then forced to establish Constitutional principles as the grounds for their jurisdiction in Family matters.

The most important principle that was created in the Tilson case has been allowed to pass unnoticed. What the judgement contains is the statement that in the Frost case in 1945 the Supreme Court followed the principle that, "where a difference between the Father and Mother leads to a situation in which the child is neglected, the State, through the Courts, is to endeavour to supply the place of the parents"

What the Tilson judgement achieved for the benefit of the State, as reiterated in the Murray judgement, was to establish the principle that the State, post Tilson, in viewing the Family as a unit, has a right to intervene in its internal affairs and necessary hierarchical structure when there are mere "differences" between the parents.

**As we have seen by confusing the issues of "education", "welfare" and "Custody" in the Guardianship of Infants Act, 1964 and by denying the existence of the Rule of the Law which necessarily governs the constitution and authority of the Family and in promoting it with the ideal and**

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expectation of “equality” between the Spouses, the State has purposely expanded infinitely the potential for such “differences” to arise as acceptable ‘grounds’ on which a Mother can be enticed to invoke the State’s interference. Then it proceeded to provide a free venue in the local District Court - under the guise of “cheaper, speedier and more convenient access to justice”.

This was in fact prophesied in the Dáil debates on the Guardianship of Infants Bill, 1963 when Mr. M.J. O'Higgins declared that,

***“it is the kind of legislation which is possibly likely to give rise to family disputes rather than to settle them. This is a subject in respect of which the Minister and the House generally must step rather gingerly having regard to the constitutional provisions which are there.”***

The State has spent vast quantities of tax-payers money in the past sixty years championing women’s rights whilst at the same time suppressing all attempts at informing society of the existence, in law, of differences in social function of the spouses within the Family unit and the benefits that flow from this for all the Family members and for the Common Good.

The institution of the Family has by necessity, like all institutions, a hierarchical structure for its efficient management, its safety in emergencies and for its general well-being. The Constitution in Article 41 recognises this and holds the Father, by way of a trust, as the head of and accountable for the Family to the State.

This is his social function within the Family. The Mother’s social function within the Family, as recognised in Article 41, is to nurture the children, safe in the protective Custody of her Husband.

#### **ARTICLE 41**

***2 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 State has sought at every opportunity to both deny the legitimate necessity of these social functions within the Married Family and advanced the falsity that their very existence is harmful.

**In so doing the State has engendered notions in Wives and children which amount to encouragement to mutiny against the Father as the authority in the home.**

In striving to achieve this goal the State has employed and backed groups whose objective has been to demean and dishonour the image of Husbands

and thereby have the effect of destroying the order that must exist between Husbands and Wives for the well-being of the Family.

Whilst denying funding to groups who seek to promote the true position of the Married Family for its established benefits to all the family members and to society, groups working in the areas of Domestic Violence, Rape and Child Abuse have been heavily financed by the State to broadcast the message that men in general and Husbands in particular are not to be trusted

The State is further implicated in its collusion with these groups by its continued censoring of the Government's own reports which clearly establish that, the Married Father is the proven most trustworthy of men.

The State has thus unjustly diminished the reputation of Husbands and undermined his legal authority within the Family whilst at the same time continuing to hold him legally accountable for the Family unit.

Considering the stress that the state has exerted against Husbands it is no surprise to find men whose Marriages have been scuppered by the State in the highest risk group for taking their lives.

By promoting the concept of the equality of the spouses and by disseminating propaganda which falsely portrays the Married Father as untrustworthy, what the State has done is to destroy the autonomy of the Family unit specifically to promote its own totalitarian agenda.

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***The State has sought at every opportunity to both deny the legitimate necessity of these social functions within the Married Family and advanced the falsity that their very existence is harmful. It has engendered notions in Wives and children which amount to encouragement to mutiny against the Father as the authority in the home.***

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***The State has thus unjustly diminished the reputation of Husbands and undermined his legal authority within the Family whilst at the same time continuing to hold him legally accountable for the Family unit.***

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## Considering the Constitutional validity of applying the “Child’s Best Interests” doctrine to the Married Family

2. On the matter of the courts Jurisdiction or right to interfere with the Constitution of the Family Mr Murray, in his Supreme Court Judgement states,

*“The relevant legislation and in particular the Guardianship of Infants Act makes provision for the custody of infants to be awarded to one parent or another in certain circumstances, not on the basis that one or the other is necessarily unfit in themselves to have custody, but in all the circumstances on the basis of what is in **the best interests of the child**.”*

*That was the jurisdiction which was accorded to the Circuit Court and the High Court on appeal and which was exercised in this case.*

*It was the clear intention of parliament that the courts should have a discretion to award custody to either separated parent according to what was in the **best interests of the children**”.*

In answer to Mr R seeking clarity as to whether the Guardianship of Infants Act, 1964 is repugnant to the Constitution, Justice Murray, who is presently the Chief Justice and Chairman of the Courts Service, appears to be claiming, in essence, that the Supreme Court derives its authority from Parliament and not from the Constitution!

The only reference to the concept of **‘the best interests of the child’** which can be found in the Guardianship of Infants Act, 1964 is in the section 11(d) amendment of 1997 which States,

"11D.—In considering whether to make an order under section 6A, 11, 14 or 16 the court shall have regard to whether the **child's best interests** would be served by maintaining personal relations and direct contact with both his or her Father and Mother on a regular basis."

The courts jurisdiction according to the judgement of Murray J. can therefore only be derived from this section.

The Oireachtas debates of this amendment clearly show that it was proposed as a direct result of the Irish State having apparently legally signed and ratified, on the advice of the office of the Attorney General, “entirely without any reservations whatsoever”, the United Nations Convention on the Rights of the Child which entered into force on 21st October 1992.

The Attorney General is legal adviser to the Government and advises the Government on the constitutional and legal issues including whether the State can ratify international conventions.

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*The State is further implicated in its collusion with these groups by its continued censoring of the Government’s own reports which clearly establish that, the Married Father is the proven most trustworthy of men.*

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*By promoting the concept of the equality of the spouses and by disseminating propaganda which falsely portrays the Married Father as untrustworthy, what the State has done is to destroy the autonomy of the Family unit specifically to promote its own totalitarian agenda.*

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Justice Murray should be qualified to understand these matters having occupied that office twice and especially during the critical period from 1987 to 1991, when these matters extensively preoccupied the legislature.

Despite the Attorney General's approval, when it came to complying with the States obligations under the European Convention on the Exercise of Children's Rights in January 1996, it was found that the Constitutional position did not allow the State to implement the United Nations Convention on the Rights of the Child and there followed a contorted exercise by the State Ministers for Justice to affect an amendment to the Guardianship of Infants Act, 1964 **which they acknowledged to be inconsistent with the Constitution of Ireland.**

Cynically this amendment was advanced as the only concession they would make to strong petitioning by Deputies, on behalf of their constituents, for a presumption of shared parenting. The discussion exclusively revolved around improving the lot of unmarried Fathers. There was never any suggestion whatsoever that this amendment would be applied to married parents.

A reading of the Oireachtas debates of the Children Act 1997, which are readily available on the *oireachtas.ie* website, shows that the Minister of State, Miss M. Wallace, described this 11(d) amendment in the following terms:

*“Deputies will appreciate that the area under discussion in the Bill is complex, involving, as it must, the question of what is provided for in the Constitution. What we know, as the Constitution Review Group indicated, is that the rights of a child are not expressly referred to in Article 41, rather the focus is on the rights of the Family, not the individual members. **For this reason the new section 11D of the 1964 Act, as inserted by section 9 of the Bill, is drafted in a way that coheres with Article 41 of the Constitution, as it stands.**”*

The term coheres indicates that it is 'stuck to' Article 41. It is therefore actually and in effect a 'back-door' Constitutional amendment but having been enacted without referendum it is therefore illegal and must be struck out.

**One can not make a Convention or Treaty Constitutional by introducing an amendment to current legislation, (that is presumed Constitutional) which has the effect of rendering that legislation unconstitutional.**

As can be deduced from the Murray judgement the purpose of this amendment was not to benefit the lot of children or unmarried Fathers, but in fact to alter the basis for the Courts' jurisdiction over married parents by amending Section 3 of the Guardianship of Infants Act, 1964, where it States,

*“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*

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***By promoting the concept of the equality of the spouses and by disseminating propaganda which falsely portrays the Married Father as untrustworthy, what the State has done is to destroy the autonomy of the Family unit specifically to promote its own totalitarian agenda.***

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***Justice Murray, who is presently the Chief Justice and Chairman of the Courts Service, appears to be claiming, in essence, that the Supreme Court derives its authority from Parliament and not from the Constitution!***

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***The Oireachtas debates clearly show that it was a direct result of the Irish State having apparently legally signed and ratified the United Nations Convention on the Rights of the Child which entered into force on 21st October 1992., on the advice of the office of the then Attorney General, [John Murray] “entirely without any***

*question, shall regard the welfare of the infant as the first and paramount consideration."*

When this was originally passed in 1964 it gave statutory effect to the established Rules of Court declared in the formative Kindersley case, 1943 (see debates, Explanatory Memorandum and Marginal Notes to Bill as passed).

These rules were Stated in the Supreme Court and read by O'Byrne J

*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 [below].*

*In exercising the jurisdiction to control or to ignore the parental right, 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 principle 'that the court can not act in opposition to the married parent unless judiciously satisfied that the welfare of the child requires it in some very serious way' is entirely consistent with the Irish Constitution at article 42.5 where it States,

*"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."*

Both the Constitutional position and the 'Kindersley Rules' enacted in Section 3 of the Guardianship of Infants Act, 1964 are derived from the O'Hara case of 1900 wherein Fitzgibbon L.J. defines, these exceptional cases

*"where special disturbing elements exist, which involve the risk of moral or material injury to the child, such as the disturbance of religious convictions or of settled affections, or the endurance of hardship or destitution with a parent, as contrasted with solid advantages offered elsewhere."*

He further States,

*" Where a parent is of blameless life, and is able and willing to provide for the child's material and moral necessities, in the rank and position to which the child, by birth belongs – ie , the rank and position of the parent – the court is judicially bound to act on what is equally a Law of nature and of society, and to hold (in the words of Lord Esher) that "the best place for a child is with its parent".*

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***Despite the Attorney General's approval, when it came to complying with the States obligations under the European Convention on the Exercise of Children's Rights in January 1996, it was found that the Constitutional position did not allow the State to implement the United Nations Convention on the Rights of the Child and there followed a contorted exercise by the State Ministers for Justice to affect an amendment to the Guardianship of Infants Act, 1964 which they acknowledged to be inconsistent with the Constitution of Ireland.***

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Hence the Amendment 11(d) disturbs the founding Constitutional principle of the Guardianship Act – the established Rule of Court that the Court can not act in opposition to the parental right unless it is judiciously satisfied that for the specified very serious reason the child’s welfare requires that the parents protective Custody should be controlled or ignored, superseded or suspended.

This principle is absolutely opposite to the undefined ‘Best Interests of the Child’ test, as denoted in the United Nations Convention on the Rights of the Child and Amendment 11(d) where it bestows unfettered discretion on the State regardless of the conduct or circumstances of the parents. There exist no enumerated controls on the scope of this jurisdiction.

There has been a concerted effort made to deceive people by claiming that "the best interests of the child" test should be applied instead of the established Constitutional rules of court.

What beggars belief is that the signing of the United Nations Convention on the Rights of the Child was made at a time when the Child Care Bill, 1989 was being reintroduced to the Dail. The first attempt at pushing that bill through had to be abandoned after a restating by the Supreme Court that the proposed legislation failed to properly take into account the settled position that the welfare of the child was to be found under the Constitution and Authority of their Married parents.

This ruling, in keeping with previous Supreme Court judgements, and which was given during one of Justice Murray’s terms of office as Attorney General, affirmed the Constitutional position that the child's welfare was protected exclusively within the married Family by parents exercising their rights and authority over them, save in exceptional cases, and for specified very serious reasons, where parents had failed in their moral or physical duties.

The other amendments from the 1997 Act include advice to parents to avail of the alternatives to court proceedings. What the State is saying here is that if the State provides parents with alternative mechanisms (no matter how inadequate or partial) of resolving a “difference” outside of court then it will assume that any application to a court automatically implies that the child’s welfare is in jeopardy.

The effect of these amendments is that there is NO REMEDY in the courts for any parent if the structures offering reconciliation are inept or against a spouse who can not be reasoned with. Children are now at the mercy of any parent prepared to abduct, alienate and turn the mind of a child against the other parent.

**In the light of the Murray judgement any application to court now invokes the courts unfettered ‘best interests’ jurisdiction and is assumed by the Court to constitute an abandonment of that parent’s Constitutional rights!**

On investigation by Social Workers, unless the child is reported to [be courageous enough] to have expressed a wish to enjoy the society of its estranged Mother or Father, then the State will not even consider making an order. Furthermore, irrespective of any wishes expressed or not expressed by the child, the State, now exercising its new unlimited jurisdiction in line with the Murray judgement, can choose to control or ignore the child’s ‘right’ and

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***In exercising the jurisdiction to control or to ignore the parental right, 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.***

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***The O'Hara case of 1900 wherein Fitzgibbon L.J. defines, these exceptional cases “where special disturbing elements exist, which involve the risk of moral or material injury to the child, such as the disturbance of religious convictions or of settled affections, or the endurance of hardship or destitution with a parent, as contrasted with solid advantages offered elsewhere.***

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wishes apparently “in the child’s own best interest”. The parent under this regime has no say in the matter.

The reality is that a practice has developed where the married Father, who is invariably the parent bereft of his children, and therefore in need of assistance, is embroiled in a conspiracy by officers of the Court and other State employees to ensure that he is disabled from being the plaintiff.

His solicitor will attempt to persuade him that the solution to his problem lies in seeking a Judicial Separation and the courts approval of him relieving his deserting wife from the duty to cohabit with him – thus legitimising her desertion and abduction of the children and entirely failing to compensate the Husband for the loss of his Wife and children.

**It is preposterous in fact to suggest that any Father would have any motivation to seek such an order when no reliefs or benefits can possibly accrue as a result.**

As far as we can ascertain, even if the Father is ...

- (a) not deceived by the above Judicial Separation ploy, or
- (b) not duped by his solicitor or Court Service staff into surrendering his Custody by making an application for Access to children that he actually has Custody of, or
- (c) not persuaded or advised by his solicitor to leave the family home to allow his Wife a ‘cooling down’ period – only to find three months later that he has allowed his wife to claim under the Lone Parent Allowance scheme so that she is now designated by the Minister for Social, Community & Family Affairs as officially ‘unsupported’ and ‘separated’ or
- (d) not considered to be paying “Maintenance payments “to his Wife, thus inadvertently appearing to have failed in his duties, when in reality all he is doing is continuing to fulfil his duty as Custodian to provide for his children or
- (e) not advised, after his Wife had made allegations of committing domestic violence, by his own solicitor to sign an undertaking to stay away from his own home

... any married Father making an application in the District Court, under Section 11.1 of the Guardianship of Infants Act, 1964 regarding an obstruction of his exercising of his Protective Custody of his children will find that the Courts Service will ‘arrange’ - in the interests of and in consultation with his wife’s solicitors - that a completely separate application from his wife will be heard at exactly the same time as his own application despite hers being lodged at a later date.

The court then performs the impossible feat of actually hearing two plaintiffs concurrently. Unlike in the superior courts that require that the plaintiff and defendant’s positions are clearly distinguished, there seems to be no observance of any such rules in the District Court to regulate the order of proceedings with the outcome that the Judge can now, and invariably does, hear the application from the wife as if she were plaintiff.

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***There has been a concerted effort made to deceive people by claiming that "the best interests of the child" test should be applied instead of the established Constitutional rules of court.***

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***In the light of the Murray judgement any application to court now invokes the courts unfettered ‘best interests’ jurisdiction and amounts to an abandonment of that parent’s Constitutional rights!***

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***the State, now exercising its new unlimited jurisdiction in line with the Murray judgement, can choose to control or ignore the child’s ‘right’ and wishes apparently “in its own best interest”. The parent has no say in the matter.***

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This gives the Mother the advantage of being the applicant. Custom and practice developed in these matters ensures this advantage of being the applicant continues for her through to the superior courts.

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***It is preposterous in fact to suggest that any Father would have any motivation to seek a [Judicial Separation] order when no reliefs or benefits can possibly accrue as a result.***

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***... any married Father making an application in the District Court, under Section 11.1 of the Guardianship of Infants Act, 1964 regarding an obstruction of his exercising of his Protective Custody of his children will find that the Courts Service will 'arrange' - in the interests of and in consultation with his wife's solicitors - that a completely separate application from his wife will be heard at exactly the same time as his own application despite hers being lodged at a later date.***

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## **Questioning the legitimacy of Ireland ratifying the United Nations Convention on the Rights of the Child**

3. Every Bill passed or deemed to have been passed by both Houses of the Oireachtas shall require the signature of the President for its enactment into Law.

The President may, after consultation with the Council of State, refer any new legislation to the Supreme Court for a decision on the question as to whether any specified provision or provisions are repugnant to the Constitution or to any provision thereof.

In every case in which the Supreme Court decides that any provision of a Bill the subject of a reference to the Supreme Court under this Article is repugnant to this Constitution or to any provision thereof, the President shall decline to sign such Bill.

The President at the time of the ratification, Mary Robinson, was therefore accountable for the determination as to whether this new Covenant passed the test of conforming with the Constitution or whether it should be referred to the Supreme Court. Mary Robinson, was Reid Professor of Law at Trinity University and so theoretically ideally able to make such an onerous decision.

**Mary Robinson and her Council were of the opinion that the United Nations Convention on the Rights of the Child (UNCRC) was not repugnant to the Irish Constitution and, unlike other signatories to the convention, felt there was no need to request any formal "reservations whatsoever".**

In fact the 'Government of Ireland' is on record for having formally made objections to the reservations made on ratification of the Convention by Bangladesh, Djibouti, Indonesia, Jordan, Kuwait, Myanmar, Pakistan, Thailand, Tunisia and Turkey on the grounds that it "considers that such reservations, which seek to limit the responsibilities of the reserving State under the Convention, by invoking general principles of national Law, may create doubts as to the commitment of those States to the object and purpose of the Convention."

**One must wonder who and with what mandate from the people did the 'Government of Ireland' condemn these countries for example, Tunisia who declared that "The Government of the Republic of Tunisia declares that it shall not, in implementing this Convention, adopt any legislative or statutory decision that conflicts with the Tunisian Constitution in particular with its reservations to safeguard Marriage!**

Equally why did Ireland not make a similar declaration to Poland who declared, "The Republic of Poland considers that a child's rights as defined in the Convention, in particular the rights defined in articles 12 to 16, shall be exercised with respect for parental authority, in accordance with Polish customs and traditions regarding the place of the child within and outside the Family.

With respect to article 24, paragraph 2 (f), of the Convention, the Republic of Poland considers that Family planning and education services for parents should be in keeping with the principles of morality."

Perhaps the answer to how this convention came to be ratified, without reservation, can be found by an examination of an interview that President Robinson had in December 2003 with openDemocracy. In it Mary Robinson approvingly Stated that nations have limited their sovereignty in ratifying the Covenants and in agreeing to report on how they are doing with respect to them. She further claims,

*"In terms of the Conventions, the United States is the only country along with Somalia not to have ratified the Convention on the Rights of the Child. In American Constitutional Law, in theory in relation to children, only parents have rights. But the Convention on the Rights of the Child says children have rights, including rights to information and participation. **So this would require that US Law would have to be changed because of the treaty.***

**It is reasonable to assume from this statement that her intention from this Statement and in ratifying this convention without reservation would appear to be to force a Constitutional change on Ireland, without any mandate from the people to do so, with the effect that parents would no longer have the right to protect their children or exercise authority over them.**

It would appear that Justice Murray has adopted this position in his judgement, that the courts can now exercise this new jurisdiction of the "best interests of the child" as denoted in the United Nations Convention on the Rights of the Child.

What the National Men's Council of Ireland is observing in our monitoring of State policy, on behalf of families, is that history appears to be repeating itself.

**We are in the midst of an escalating crisis in Ireland where the State and its court are again stripping families of their assets and posterity - their farms, Family homes and their inheritance and where children can no longer rely on their parents' being permitted to exercise their rights to nurture and protect them.**

Naive aspirations that children's rights are superior to parent's rights and that children should exercise their own rights without parental control must have the inevitable result that children will be out of control.

Parents are experiencing this daily in their lives. Children are returning from school brimming with ideas about their own superior importance to the rest of their Family thus making the task of parents to protect their children ever more impossible.

**It would appear that Justice Murray's judgement is in line with other areas of State public policy in implementing the promotion of children's rights even though our Constitution as it stands unamended does not endorse**

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**Mary Robinson and her Council were of the opinion that the United Nations Convention on the Rights of the Child (UNCRC) was not repugnant to the Irish Constitution and, unlike other signatories to the convention, felt there was no need to request any formal "reservations whatsoever".**

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**... why did Ireland not make a similar declaration to Poland who declared, "The Republic of Poland considers that a child's rights as defined in the Convention ... shall be exercised with respect for parental authority, in accordance with Polish customs and traditions regarding the place of the child within and outside the Family.**

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this policy and that Ireland's involvement with the European Union will cost us our Families and our Children.

Roger Eldridge, Chairman, National Men's Council of Ireland,  
Knockvicar, Boyle, Co. Roscommon Tel: 00 353 (0) 071-9667138  
Web site: www.family-men.com Email: familymen@eircom.net

*"Using children to tug on our heartstrings may be not only a weakness of the sentimental. It also may be a ploy by those cynical and unscrupulous enough to exploit children for their own purposes.*

*This is likely to be remembered as one of the most diabolical perversions of governmental power in our history, a time when we allowed children to be used and abused by fast-talking government officials and paid for it with our families, our social order and our constitutional rights."*

*Professor Stephen Baskerville*

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***Mary Robinson claims. "In American Constitutional Law, in theory in relation to children, only parents have rights ... So this would require that US Law would have to be changed because of the treaty."***

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***It is reasonable to assume from this statement that her intention from this Statement and in ratifying this convention without reservation would appear to be to force a Constitutional change on Ireland, without any mandate from the people to do so, with the effect that parents would no longer have the right to protect their children or exercise authority over them.***

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National Mens  
Council of Ireland

## **Open letter to all TDs and Senators**

sent 18 July 2004 outlining

### **Marriage Crisis**

and enclosing copy of

### **'Brides of the State'**

**National Men's Council of Ireland**



A Chara

Please find enclosed a copy of an article published in "Inside Cork" on Thursday 8 July 2004.

We are presenting this piece to you personally because you, our legislators, like the National Men's Council of Ireland, will understand the vitally important function that marriage plays, both in the spiritual domain as well as for the common good and indeed we believe that the integrity of our civilisation depends upon it.

The enclosed article simply outlines the way that the state is using its position to actively undermine marriage and make it and a family life wherein they can settle down, unattainable for almost all young men. We were ourselves shocked at the results we obtained when we did our calculations and we are sure you will be too.

Unfortunately what is happening, even under the noses of you, the elected representatives, is that elements within the state are pushing into every aspect of our lives, especially family life where marriage is being systematically undermined with laws and social welfare policy that NO-ONE ASKED FOR.

It is not too far-fetched to imagine, with the policies introduced which discount the role of marriage, that elements within the state are trying to take control of our children.

We believe that unless our public representatives show an unequivocal support for the institution of marriage the resulting decline in morality and ever spiralling upward increase in dysfunctional behaviour will wreck havoc on our people and lead to disaster.

Recently the National Men's Council of Ireland conducted a straw poll on the streets of both our cities and rural towns. This is what we asked.

Are you married?, and if the answer was "No", Would you like to be married?

We conducted the survey during lunchtime to ensure a random sample of both men and women, young and old, employed or not.

We also asked a Bishop here in Ireland what percentage of Yes answers he would expect.

He said about 40%. Other people we asked all said 25 to 40%.

When we totted up the Yes replies to either of the questions result was a resounding 94%! Yes 94% of people either were married or expected to get married in their lifetime.

What this survey shows to us (and to the Bishop) is that the media (and our own government agencies) are telling us lies and what's worse; we are believing them!

We are believing them when they tell us that "marriage doesn't matter any more" and the protections of our family life guaranteed by the Constitution need not apply!

At the National Men's Council of Ireland we see our job as promoting marriage and supporting all organisations that share our common goal of affirming the elevated position this institution holds, both in the Constitution and in the hearts of the people.

We humbly acknowledge the essential role that democracy also plays in ensuring 'the 'common good' and in guaranteeing the people the highest quality of family life.

Similarly we are keenly aware that the Irish Constitution, Bunreacht Na hÉireann was enacted in 1937 as a document that clearly defined the rights of the ordinary citizens.

The framers of the Constitution knew that the state's natural totalitarian impulse must be kept under constant surveillance, otherwise it would get out of control.

When the Republic was founded the people created the Constitution to ensure that they would never be subjected to a tyrannical state power again.

The Constitution was enacted solely to protect the rights of the people from the excesses of the state.

For anyone to initiate a move to get rid of the Constitution by signing up to the EU Constitution is an act of treason against the people.

Yet during the past few months the Government of Ireland has been utilising all its resources (paid for by our taxes) to rush in a European Constitution which will eliminate our own Constitution and so ditch all the protections that the people now have so that the state and EU can, without limitation, sign away our sovereignty, further intrude into our private life and destroy our family life.

The role of the National Men's Council of Ireland is to represent the perspective of the family men and women of Ireland and their children - 85% of whom were born within the family based on marriage.

Despite there being no resources made available from the state to support groups like the National Men's Council of Ireland we have adopted as a central part of our Aims and Objectives to support children and the natural family based on marriage

One of our prime activities is to monitor, on behalf of parents, how legislation and social policy impacts on the family and marriage and in particular for children.

What we are presenting to you today, with this article, is just the tip of the research that we have compiled and would earnestly request that we open a formal communication channel between us so that we can exchange information and resources to achieve our common goal - that of the defence of freedom in our personal lives and the promotion of the highest quality of family life, based on marriage, for the people of Ireland..

Our Submission to the Family Support Agency and our Preliminary Report on the Family and Marriage in Ireland in 2003 and other documents are available to download from our web site [www.family-men.com](http://www.family-men.com).

We look forward to working with you in this most important work. Please contact our Cork or Roscommon offices.

Yours sincerely

Roger Eldridge

Chairman, based in Roscommon

Or Harry Rea

Treasurer, based in Cork

*Inside Cork Thursday 8 July 2004*

## **'Brides of the State' and the Family Man**

*By Katie Mythen*

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. However, as society moves further and further away from the traditional values of marriage, wedlock and two-parent families, embracing what has become a comparatively liberal reality, the outline of a father's duty in the upbringing of children has become somewhat blurred.

For years, many men have found themselves on the outside of what was once their family life, faced with the stark realisation that having rights and actually being able to exercise them are two completely different issues. 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, marriage and, particularly, on children.

Roscommon man Roger Eldridge, Chairman, National Men's Council of Ireland told Inside Cork, "Recently an unmarried father complained about his treatment as a parent saying, "Men can rear children, wash dishes, cook meals, clean houses just as well as women can. The only thing they can't do is give birth. "The obvious reply is, of course men can do all the practical things. The problem for men lies in the second sentence, "The only thing they can't do is give birth." This leaves this man and all unmarried men with the problem of how do they propose that women let them "rear children, wash dishes, cook meals, clean houses?"

Roger continued, "What the National Men's Council of Ireland are saying and what is in the Constitution (for the Common Good) is that only marriage allows a man to have a legitimate opportunity to have a family life as this man describes. A man earns himself a role by being family protector and provider. As long as the woman values his role she will agree to him being part of her family."

According to the French novelist and social anthropologist Briffault: "The female, not the male, determines all the conditions of the animal family. Where the female can derive no benefit from association with the male, no such association takes place". - Robert Briffault"

"This somewhat harsh analysis derives from the empirical data which show that, despite our delusions about women being the more romantic partner in a relationship, 90% of women marry a man who has more assets or earning potential than they do." Said Roger. "If women married for love the law of averages suggests they would marry a richer man only 50% of the time. The state is aware of Briffault's Law and through social welfare policies and illegal judicial activism in the family courts has sought the

place of the husband. Effectively the army of "unmarried mothers" and 'separated wives' in Ireland today are "Brides of the State".

For example the state is able, through the so-called 'One- Parent Family Payment' scheme, to offer young women a disposable income that 99% of young men can not compete with. We have calculated using up-to-date figures how much a man must offer just to compete with the equivalent cash-in-hand that an unmarried mother is currently receiving by way of benefits, including housing, clothing, fuel allowances etc. If the mother has 2 children, gets Child Benefit and the One-Parent Family Payment and she avails of the scheme where she works 19 hours a week at times that suit her, her cash in hand will be roughly 450 euro per week. She pays no tax or PRSI on this. On to this must be added the cost benefits of the free Medical Card, Fuel Allowance, Back-to-School Clothing Allowance, say at a minimum another 30 euro. She will be put at the top of the Local Authority housing lists and will then get a reduced rent or mortgage payment benefit equivalent.

For a young man to generate an equivalent disposable income he must provide as take-home- pay the same 480 euro she is getting plus he must provide equivalent secure housing which means a mortgage costing him a minimum of 150 euro per week. So now he must provide 630 euro per week in his hand to provide the equivalent of what the state gives to the mother for her and her two kids. We must not forget his basic needs. The most important being that he needs is a car so that he can get to work so he needs again a minimum of another 70 euro in his hand for insurance, tax and running costs. The state allowance for a single man on the dole is 130 euro so let's assume he lives on the breadline. This means that he must bring to the relationship  $630 + 70 + 130 = 830$  euro in cash to enable his wife and him to live at the level that the mother could enjoy from the state on her own without him. This cash is after tax and PRSI deductions so his gross pay must be in the region of 1250 euro! It is obvious that only exceptionally fortunate young men (or any man) can compete with the state for the mother's 'hand in marriage'.

The average gross pay for 20 to 30 year old men is actually less than half what he needs to be an 'eligible' bachelor." Hence the state, having wooed the mother with our tax-paid money, then acts in the nature of a jealous husband who will countenance no rival suitors and so ensures that she will never marry a man. If the mother should meet a man who might have the potential to foot the bill for her, this is where the state gets really nasty. It says that if she is even seen with a man about the house she will lose all her benefits!"

Roger feels that the untold pressure on the modern Irish man contributes significantly to the country's climbing suicide rate, "We shouldn't be at all surprised to see that the rate of suicide amongst men in Ireland is one of

the highest in the world," he said, "and that it peaks for males between the ages of 20 and 35, when men should be at the prime of their lives and getting married so they can start a family and enjoy the comforts and benefits that it brings." A recent World Health Organisation report, entitled Young People's Health in Context, which studied the health and behaviour of 11 to 15-year-olds in 32 European countries, as well as Canada, America and Israel, cited family structures as an "important factor" in young people's health.

Jill Kirby, the chairman of the family policy group at the Centre for Policy Studies, said: "There is a mass of evidence that children brought up by only one parent are at risk of under-age sex, drug abuse and drinking." Roger asks, "So how does the state justify promoting the position of unmarried mothers to the detriment of their children? And why, with the Irish Constitutional position clearly encouraging families based on marriage, is the state penalising the formation of marriage and RTE hell bent on preventing groups like us who promote marriage for its well-documented benefits from being heard by the people? The answer frighteningly must lie with the fact that the unholy alliance between big government and big business wants us all to be isolated, vulnerable individuals without family or community supports so that it can do what it wants with us, ie enslave us. Isn't it time that the decent family men and women of Ireland stood up for themselves?"

As always, Inside Cork welcomes your views (Broadcasting House, Patrick's Place, Cork). For more information on the National Men's Council of Ireland, visit the organisation's website at [www.family-men.com](http://www.family-men.com) or email [familymen@eircom.net](mailto:familymen@eircom.net)

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National Mens  
Council of Ireland

# **The Family - Marriage and Children**

**Some Observations**

**National Men's Council of Ireland**

## **The Family - Marriage and Children**

The National Men's Council of Ireland, in keeping with the Irish Constitution, extols the virtue and value of the two-parent, Marriage-based family as the foundation of society. We hold that Marriage can only be the union of one man and one woman and is intended to be life-long.

We believe that the state and community should at all times promote and encourage the philosophy that sexual relations should be confined to lawful Marriage.

We trust in God, in rationality, in Bunreacht Na hÉireann and the Rule of Law.

We therefore use plain language in our statements and this might appear at first to be harsh but we believe that a constructive debate can not take place if it is confined by political correctness which insists on non-judgementalism and a rejection of common sense.

The National Men's Council of Ireland seeks to protect Families, schools, and places of worship against the cultural forces that threaten them, including biased, misandrist and offensive media attacks on religious and parental liberty.

In keeping with this role we monitor, on behalf of the Family men and women of Ireland, legislative changes and state social policy for its impact on the Family based on Marriage and especially on children.

Contrary to what the media would have us think and what the State is disseminating through its Legal Aid Board, Human Rights Commission and Information Services, Marriage is denoted, in law and in the Constitution, as the position that exists whereby the Husband is designated as the head of the household and as the authority within the Family unit.

This position of husbands as head of the Family and the position in law of his Wife and children as his dependents is outlined in his essay, "The constitutional protection of parental rights" by William Duncan in the Report of the Constitutional Review Group, 1996. In it he refers the reader to Katherine O'Donovan, Senior Lecturer in Law at the University of Kent, where she states in her book, "Sexual Divisions in Law",

***"Within the modern bureaucratic state the nuclear Family of Husband, Wife and their children is treated as a unit. The head and public representative of this unit is the Husband, whose Wife and children are legally constituted his dependants, not only economically but also because they are subject to his orders. His role is to control what goes on within the Family in private."***

In this private aspect of Marriage provides for true equality between both parents.

The mother has the right of nurture by nature of the children and the husband has the right of Custody in law so he can protect his dependent wife and children.

If the Husband does not disentitle himself he is also guaranteed, in law, to continue to hold the right and duty of Custody if his wife deserts him. This

prevents mothers unilaterally abandoning the relationship for financial benefits and prevents the state from taking over the Custody of the children from the Husband.

We believe that the only legitimate role of the state is to provide services to effect a reconciliation where conflict occurs. Our research has uncovered the facts that lead us to believe that it is the State itself which is precipitating much of this conflict and sadly the Family Support Agency are spending most of our money on facilitating people to separate.

We can not find evidence which shows a benefit to children of the state supporting even an 'equitable' outcome for parents after separation as it fails to recognise the damage already done to children, adults and society by the separation itself.

The foremost public function of marriage is to regulate procreation and avoid incest. The prohibitions are extensive and purposely discriminate against legitimising sexual intercourse within certain pairings.

For a society to flourish it must look to the procreation of the next generation. To properly safeguard the health of its offspring society has to regulate who has sexual intercourse with who. The taboo of incest has served this function for hundreds of generations and this was codified in the 1835 Marriage Act and forbids certain blood relatives, step-relatives and relatives-in-law from getting Married ie from legitimately having sexual intercourse.

These restrictions are officially known as forbidden degrees of Relationship and all marriages after 1835, between persons within the prohibited degrees of consanguinity or affinity shall be absolutely null and void.

The law prohibits a man marrying his:

\* Mother \* Daughter \* Sister \* Father's mother \* Mother's mother \* Son's daughter \* Daughter's daughter \* Father's sister \* Mother's sister \* Brother's daughter \* Sister's daughter \* Father's daughter \* Mother's daughter \* Wife's daughter \* Father's wife \* Son's wife \* Father's father's wife \* Mother's father's wife \* Wife's father's mother \* Wife's mother's mother \* Wife's son's daughter \* Wife's daughter's daughter \* Son's son's wife \* Daughter's son's wife

The law prohibits a woman marrying her;

\* Father \* Son \* Father's father \* Mother's father \* Son's son \* Daughter's son \* Brother \* Father's brother \* Mother's brother \* Brother's son \* Sister's son \* Father's son \* Mother's son \* Former husband's son \* Mother's husband \* Former husband's father \* Daughter's husband \* Mother's mother's husband \* Father's

mother's husband \* Husband's father's father \* Husband's mother's  
father \* Husband's son's son \* Husband's daughter's son \*  
Daughter's daughter's husband \* Son's daughter's husband

When one sees the extent of this list of prohibited 'degrees' one understands more fully how the primary function of Marriage is to regulate procreation and therefore what an absurdity it is for people to promote Marriage between people of the same sex who patently can not procreate.

These people show their ignorance further by arguing that preventing people of the same sex from marrying is a form of discrimination against them. If their argument was to be accepted as having any merit then obviously the people who are prohibited from marrying at present, by these degrees of prohibition, should also be allowed to marry as they surely are far more discriminated against than same-sex couples because, being heterosexual pairings they at least have the biological capacity to procreate!

We have applied for funding to the Family Support Agency to start to explain to the people the vital importance of Marriage to their own well-being and to society as a whole and how the Constitution protects their Family from interference from the State.

To date our request for funding to do this has been refused.

Our extensive inquiry into the law and outcomes for children and their parents leads us to require that the Constitution should ensure:

1. That Marriage be protected and defended from attack because it offers to children and adults the best arrangement for a satisfying stable Family life and provides the elemental structure required for a civilised society
2. That fault in Marriage carries a penalty because children hold their parents as role models
3. That the practice of unlicensed procreation be discouraged so as to encourage licensed procreation - Marriage.
4. That social policies, like tax and welfare codes, be geared to promote and benefit stable Families with children.
5. That parents are respected as the primary educators of their children with the state's function being confined to facilitating the parent's role.

We invite readers to visit our website [www.family-men.com](http://www.family-men.com) where they can view and download the reports and documents we have gathered which show how the State is undermining Marriage and what we require of the State to support Marriage. We operate an email magazine called "Family Matters" and can be contacted through our website and welcome contributions and affiliations from individuals and groups who wish to join us in this most important work.

Roger Eldridge,  
Chairman. National Men's Council of Ireland



National Mens  
Council of Ireland

# **The Rights of Women**

**and the Violation of  
their Marriages by the State.**

**Some Observations**

**National Men's Council of Ireland**

## **Marriage and the Social Functions of Men & Women**

An understanding of Marriage starts with the oldest story in the world - that of the wonder of human biology and of the miracle of conception and the birth of a child.

This requires a woman who is 'willing to receive' the seeds of creation from a man who is 'willing to give them' to her so that together in an act of mutual love they initiate a new life which, after a gestation period inside the woman, is born into the world as a newly formed baby needing love and care.

Especially at the point of birth, but also during the period of the pregnancy and breast feeding, the woman is utterly vulnerable. She is emotionally all at sea and physically exhausted and not capable of providing shelter and sustenance for herself and the baby. They have to be looked after.

When a woman gives birth and the Father is not present the task of caring for her and the child falls on her family if they are agreeable. In the past, if they weren't we referred to her and the child as being a "burden on the parish".

In modern terms we now say that a Mother in this position is 'entitled' to welfare payments, this time from the State rather than the parish but in both instances she is cared for by money provided by the community at large and not by someone who is within the loving trinity of Father, Mother and child.

When a woman marries, her Husband relieves the parish or State of that burden and takes on the liability himself to protect and provide for his Wife and any children they are blessed with.

Through his sacrificial love the Husband is able to provide a Family home situation for his Wife and children where all social science studies show they enjoy better health, more educational potential, more wealth, the most happiness and longevity of life than any other type of living arrangement!

The children born to his wife take his surname as they are now legally his duty to protect. It is also primarily his responsibility to instruct them in the ways and rules of society and because they bear his name he is judged as to whether they are turning out well and are a credit to him or not in his job of socialising them. If they commit any public offence it is him who is held accountable by the community and the law.

In order that he can properly carry out his duties the Husband must necessarily be given some authority within the Family hierarchy to do it. The State regards him as the public representative of the Family unit - as the head of the Family and promises, in the Constitution, not to interfere with his authority. This secures for the family a strong barrier to regulation of family life and family values by the State.

His position regarding the children is that in legal terminology we say he is held wholly accountable for their 'Custody' - their keeping and safe-keeping..

## **Rights of Mothers under the Constitution**

Because of the Father's accountability Mothers do not have or ordinarily need the right of Custody of their children but can apply for Custody, from the courts, if there is compelling evidence that the Husband has failed to properly carry out his Custodial duties of protecting and providing for his children, i.e. Where he has actually abandoned his children. (The statistics show that it is very rare for a Married Father to abandon his children.)

This logically means that the Mother is asking the court for the right to provide for and protect the children HERSELF. This makes no sense. If the Father has actually abandoned the Family, what she needs from the court is an order to compel her Husband to provide, in his absence, sufficient money to properly maintain the Family. She assumes a form of Custody by default and uses his money to provide for the children and she protects them as best she can.

Once he has gone she has no need to apply to the court for an order to have Custody of the children. This is easily demonstrated by the fact that there is no legal requirement of a Mother to apply for Custody if her Husband were to die.

What is happening in the vast majority of these Family law cases (denoted as private Family law as it is considered a matter without public concerns for the welfare of anyone in the Family) is that the Mother is encouraged to apply to the courts for the Husband's Custody to be removed in situations where the Father has not abandoned his duty to provide for and protect his children. Far from it.

These are cases where there is definitely not any abuse going on.

If there were any concerns about a child being abused the Mother would be obliged to notify the Health Board and if their investigations showed that there was a case to answer it would become a public Family law matter instead of a private Family law matter and the Health Board, and not the Mother, would now bring the case to court under the Child Care Act, 1991.

Similarly if an adult in the Family was being physically or sexually assaulted this becomes a criminal matter and after investigation by the police to ascertain if there is a case to answer it is the State, through the Director of Public Prosecutions who would bring the case to court and not the Mother.

Private law cases, which are by definition brought where there is no concerns for the welfare of any Family member, account for the vast majority of cases.

Anecdotally a common theme is where the Mother deserts her commitment to the Marriage and deserts with the children without the Fathers consent. She is then in the legal position of having "unauthorised possession of the children". Any application by her under these circumstances is merely a legal ploy to legitimise what she has done.

In many other cases reported to the Council the Mother applies because she wants to wrest control of the children from a Father where she considers he has too much input into the children's lives. She might have a multitude of reasons for doing this - jealousy, anger, narcissism - but none of these applications, as we

have seen, would, contrary to the myths we have all been fed, are out of concern for the welfare of the children or herself.

If we look at the outcomes of these cases we see that the granting of Custody to the Mother is actually just an intermediate step towards the court making lucrative awards of money and property for her benefit either from the Husband or from the State through entitling her to preferential social welfare payments and housing.

The fact that in gaining this form of Custody she is able to control and sever her Husband's relationship with his children and be feted, as a victim by the couples' circle of friends and society as a whole. is a bonus for many women.

It is in the interests of lawyers who benefit from fat fees for little work and the State who wants to destroy Marriage to ensure these pre-determined outcomes of financial and social benefits to women. They fuel the expectations of the next generation of women induced to end their Marriage..

Eamon de Valera saw clearly back in 1937 that the western world was going to be under pressure from what he dubbed, "the modern evil" of women being encouraged by exploitative lawyers to grab the Family assets for their exclusive use.

With prophetic astuteness and uniquely amongst all the Constitutions of the world, he introduced Articles 41 and 42 into the Constitution specifically to strengthen the position of the Married family, to guard against this modern evil. Knowing where the greatest threat was to come from he made the State pledge itself to carry out this task.

Unfortunately, as we show in our report, "An Analysis of Parental Rights and Marriage in Ireland and the Constitutional Review, November 2004" which is available to download from our website [www.family-men.com](http://www.family-men.com), subversive elements within the State have gained control and have done everything they can to undermine Marriage.

In case the position of the father as the Custodial parent with all the liability to maintain his dependent wife and children is not clear enough the Constitution further reinforces this position by declaring that, "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."

Reference to comments made by Eamon De Valera in the debate of June 1937, on this article are worth noting,

*"President De Valera: It is perfectly obvious to anybody who takes the trouble of reading the section what its intention is. This is dealing with the family and states: "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".*

*I should like to know if anybody will controvert that. Then it goes on: "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." Surely that is a*

*praiseworthy object for the State to set before itself — that Mothers, whose work is essential for the common good, should not be compelled by economic necessity to abandon that fundamentally important work and be forced to undertake duties which would compel them to neglect their duties in the home.*

*I have not been able, from the start, to understand why there should be any antagonism of any kind to that section. I do not understand the attitude of any woman who objects to it. There is no suggestion in that that a woman should not be free to take up any avocation she chooses; no suggestion that a woman should not exercise her liberty of marrying or not marrying. What is stated here is, if women choose to marry and found a home, that they should not be compelled by modern conditions, which very often force Mothers to engage in outside labour, to do that, and that it should be the duty of the State to endeavour to see that that shall not happen. How the State may endeavour to see that is quite another question. We leave the methods completely and absolutely open, as it is right that we should.*

*For example, to indicate my own mind in regard to the attitude the community should have towards men and women in that particular matter in regard to the home, I would say this, that if work and the means of livelihood are not available for the father of a family, the State should itself, if it cannot be found in ordinary industry, in ordinary commerce and in the economic life, endeavour to provide that work somehow. If the State is unable to do that, it is only then that the obligation of maintenance would fall upon the community as a whole.*

*But, if I were able so to organise it, I certainly would try to get for the community as a whole some immediate return from a man who is getting assistance in that particular way. In other words, I should try so to organise it that work of public utility, something of value to the community as a whole, should result from the assistance which the community had to give in that particular matter. I think the man ought to render back to the community in the way of some work something for the assistance he is given.*

*But, if it were a woman, I take quite the other attitude. I say a woman, by her duties in the home, is, in fact, performing for the community as a whole a fundamental service. I would say that she, by doing that work, was rendering invaluable service to the State and I would not require of a Mother, under these circumstances, any other form of return, such as I would be inclined to demand in the case of a man.*

*That makes quite clear what our attitude is in regard to woman's position in the home. She is rendering in the home a fundamental and indispensable service to the State. The greatest service she can*

*render is to perform her duties in the due manner and anything that would compel her to neglect these duties would be, in my opinion, a loss to the State as a whole.*

*This is a just recognition of the important part that Mothers play in society as a whole in their homes. That does not mean to say that women are not playing important parts elsewhere. Does it mean that men, the fathers of families, are not playing important parts both in the home and out of it? It does not, because that particular aspect did not demand attention from us. Here we are dealing with Mothers. We are trying to deal with a great modern evil, as I have already said. All that is done here is to try to get people to agree, as part of their fundamental law, that it should be the purpose of the State to try to secure that Mothers will not be forced to neglect their duties in the home by economic necessity compelling them to labour outside."*

This means that only men can be held liable for the maintenance of their family. Clearly with this situation still pertaining to this day there can be no equality in accountability and to reflect this the law and government policies must strongly favour the employment and higher earning capacity of HUSBANDS.

This is how it was prior to the seventies. For the same work a Husband was paid more than was given to single men and women - it was called 'a family man's wage' - BECAUSE the State and society acknowledged then that he, and only he, HAD THE LIABILITY IN LAW TO MAINTAIN HIS FAMILY.

The great confidence trick that has been perpetrated is the broadcasting of the myth by the State that parents have "joint custody" and for the past thirty years the State has employed groups to articulate what we call 'feminist' ideology to promote the lie that there is 'equality' in responsibilities within the Married Family.

The Constitution, in its recognising of the vital role that Mothers perform in a Marriage for the Common Good, actually created true equality which is real and not the feminist form of 'equality' we are constantly deluged with which is the centrepiece of flawed Marxist ideology designed to empower the State to control every aspect of our lives. The State's ultimate aim is to destroy Marriage and with it our private lives, the extent of which is a measure of a free society.

True equality was achieved in the Constitution where it recognises that Married Mothers attain the right to nurture their children by nature and that Fathers gain their right to a Family life and Custody of the children by Marriage.

These distinct and complementary roles of men and women are known in legal terms as differences in their 'social function' and are recognised in Article 40.1

"All citizens shall, as human persons, be held equal before the law.

This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function."

This allows for the State to treat men and women as "not equals" and shows that so-called 'Equality' legislation and government policy in this area is a sham.

Incredibly with all the resources open to them no feminist or women's group has ever asked for there to be 'equality' in law regarding this major difference in social function. Instead, to their shame, certain feminist groups have ruthlessly exploited the privileged position of women in law without heed to the consequences to their children and society.

They have set out specifically to upset the delicate balance that necessarily exists within every Marriage by encouraging the Wife to believe that she should not respect her Husband. They do that in a variety of ways - though so-called 'assertiveness training' where women are provoked into challenging the Husbands role and through 'domestic violence education' programmes where the normal performance of the Husband's statutory duty of being the person responsible for the family's finances and the children's discipline is interpreted as an act of Domestic Violence!

## **The Violation of Marriage by the State**

It is vitally important to note that all these feminist groups are funded by the State. They are in fact employed specifically to do the State's dirty work. The State's aim is to foment a mutiny within the home and so cajole the Mother into wrecking the Marriage and allowing the State to transgress the rights of privacy obtained through Marriage.

Since the Guardianship of Infants Act in 1964 the legal system has cheated society by denying Married Fathers their remedy of 'habeas corpus' for the return of his children to his Custody and whilst there is no remedy available to him any involvement by a Father with the family courts can only be detrimental to his position and to his ability to protect his children.

In a Supreme Court judgment handed down by the Chief Justice the State claims that it can do supersede a Father's Custody who has not in any way misconducted himself. Therefore a Married man bereft of his children has no defence and no remedy in law.

In this situation, once the Mother is enticed to apply to the court the only outcome for a Married Father is to have his protective Custody of his children removed!

If the basis for this judgment and the subversive elements within the State who support it are not repelled it means that the rights which a Father acquires through Marriage to a family life and which he should be able to vindicate to protect his children can be violated at will and Marriage per se in Ireland will have been successfully subverted by the State .

The National Men's Council of Ireland have documented evidence which they have presented to the Minister for Justice and the Human Rights Commission which shows beyond a shadow of a doubt that the State's legal system is responsible for gross violations of the rights of every Married Family.

The situation exists now where Fathers, Married and unmarried are being manoeuvred into being treated as nothing more than debt-bonded slaves with no power to protect their Families from State interference.

Much of the documentation in support of the statements made in this article is available to download at our website [www.family-men.com](http://www.family-men.com). Our hope would be that by making this information available it will severely curtail the ability of the State to interfere with and break up Marriages and so provide security and happiness to Families again.