

Laws that treat children as chattels do lifelong harm; Freda BRIGGS
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BYLINE: Freda BRIGGS

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WHEN young children report sexual abuse by a parent, the other parent is placed at a disadvantage. Unless there is a prosecution and conviction (and statistics published in The Advertiser show how rare convictions are), the protective parent may have to turn to the Family Court to vary or stop contact between the victim and the abuser. This is risky, given that some judges ignore medical evidence of abuse and determine that parenting must be shared or, worse, that the child should be handed to the accused sex offender. In some cases, the protective parent may choose to flee the country.

International media recently reported that two young Australian children were removed from their mother's care abroad and detained in a European institution for a year at the behest of their Australian father and on the instructions of the Family Court.

They were "snatched" by police in the early hours of the morning. The matron in charge of the institution reported in writing that both children became mentally and physically ill as a result of their incarceration and Attorney-General Ruddock was informed. The UN tried to intervene to no avail.

Recently, the children were flown back to Australia (with a stranger) and placed in foster care. They were not allowed to say goodbye to their mother. They do not speak English; the boy was reported to have lost speech as a result of trauma. The mother, their sole caregiver for more than four years, does not know their whereabouts.

Despite the children being "too ill" for the mother to visit them only a few days earlier, the media were told that the children were well and happy, playing on the beach with "no signs of distress". An amazing recovery.

Despite the Government's signing of the UN Convention on the Rights of the Child and provision within The Hague Convention for giving precedence to children's wellbeing, Australian children are open to being abused and punished by the authorities that are supposed to protect them. If I locked up children for a year and caused them severe psychological problems, I would be arrested for child abuse and probably imprisoned.

The Family Court (assisted by untrained legal representatives, some of whom advise judges on what is in children's best interests without even seeing the children) can cause lifelong harm with no risk of being sued, prosecuted or even exposed by the media.

Decisions like this are publicised by media in several European countries, but the Family Court in Australia is protected by secrecy. What should be done?

First, courts must become more child-focused. It is clearly not in children's interests to be handed over to the parent they accused of sexual offences, least of all when there is medical evidence supporting the allegations.

Children should not be treated as items of property to be shared by two warring parties, regardless of risks. The education of Family Court judges, lawyers and indeed the Attorney-General's staff needs urgent attention. Damaging decisions can be made in this country because judges are not accountable. Only parents with fat wallets can afford to appeal against bizarre decisions that are withheld from the community. European media have been highly critical of the judges and our Federal Government but the ban on reporting Family Court proceedings prevented the Australian public from being informed about what was happening.

A better option would be for all child-abuse cases to be heard in a child-friendly environment staffed by experts in child development and abuse, assisted by a legal adviser.

If that could be achieved, there would be far fewer cases decided by Family Courts.

* Prof Freda Briggs is a child protection advocate and Professor of Child Development at the University of SA.