August 29th 2006

Response to the DCA consultation on transparency;

The response from FLINT Family Links International is not responding point by point to an inadequate consultation. Our response is quite simple; until the perjury Act 1911 is strictly applied to CAFCASS and Social work reports as well as the main principles enshrined in decisions of the European Convention of Human Rights and Common Law along with truly open courts – the public will not have any idea of what really happens in behind closed doors and injustices will be served as is common practice in the UK destroying families and social cohesion.

Our response is simple; open up the secret courts to the public in full. Names of children and school not to be reported but everything else as in other types of courts with open and frank discussion of the widespread, systematic and persistent abuses of human rights in the UK by those in power and control of a mammoth vested interest industry.

The judiciary, media and Governmental agencies are responsible for the dissemination and basically lies against fathers and families causing such social damage that it may well turn out to be irreversible. For which reason we and others are preparing to take these matters to the United Nations under 1503 procedure.

Empire building with the adoption, divorce and domestic violence industries, feminist sociological cant and vituperation along with abuses of power cannot be tolerated when the system itself is unaccountable to the public and disseminates propaganda of a hostile nature which is disrupting the very fabric of society.

The DCA is quoted in the Observer on August 27th as setting up a website to obtain the views of children on open Courts and transparency. One wonders what goes on in the minds of the DCA under the hand of Harriet Harman when there is no control over who whether adult or child is responding to the website.

Children of what age and what Gillick competence are being asked their opinions? Is it children who have suffered parental Alienation Syndrome, children whose only knowledge of the court process is what one parent tells them or children who have met the anti-father and anti-family body CAFCASS or Local Authority social services?

It would seem that the monkeys are running the zoo. Is this a valid manner in which to adduce evidence? What would happen if children were asked if they should attend school, the dentist or eat vegetables with every meal? This idea is open to so many abuses that it should be discarded from consideration.

Prosecutions for non-attendance at school. A guide for improving practice Graham Webb and Jacqui Newvell. CB promotes the voices, interests and well-being of all children and young people across every aspect of their lives. Published by the National Children's Bureau. ISBN 1 900990 29 0

Does it work? – messages from the research

Research findings

The research analysed prosecution data provided by 97 LEAs and explored the views of professionals, parents and children on their experience of the prosecution process.

The research found consensus among professionals, broadly supporting the principle of prosecution to improve children's attendance. However,

professionals also expressed mixed views on prosecution as the sole criteria of success.

Professionals felt the processes leading to court proceedings often had a greater potential for effectiveness than the court-related outcomes as they presented an opportunity to reinforce the seriousness in law of non-attendance to parents. A staged process requiring active participation by parents enabled engagement between families and all other involved agencies.

A significant number of professionals referred to the compulsory nature of

education and the need to prosecute when necessary, **to enforce parents' legal responsibility to send their children to school and hold them accountable for their actions.** Linked to this, professionals agreed with the principle of prosecution because it recognised, protected and defended children's right to education and could present a means of engaging parents who fail to cooperate.

Additionally, there was a sense that by prosecuting, LEAs were seen to

be 'doing their job', which increased their credibility among agencies, including schools, which generally support legal intervention. **Prosecutions for non-attendance at school Graham Webb and Jacqui Newvell www.ncb.org.uk page 9 of 47 August 2004**

The most common reason for parents' opposition to prosecution was their

objection to being held responsible for children's behaviour, which was shared, to a degree, in comments by children. **However, the majority of children who**

participated were not particularly concerned that their parents were prosecuted. The issue of deterrence was raised in the research. Professionals felt the exemplary effect of prosecution on the attendance of other children in a family, children in school and the general public was significant. **Service managers held the belief that local publicity surrounding high profile cases had an impact on attendance within their LEA.**

The study concluded that just over two-fifths of prosecutions could be classed as effective, in that post-prosecution attendance levels had risen. Just over one third of a sample of 20 cases was not effective as there had not been a significant improvement. In one-fifth of cases, prosecution had mixed effectiveness, including sporadic or intermittent increases in attendance followed by decline. Variations in the cooperation and attitude of parents and children, family relationships and behavioural issues were identified as key components in the relative effectiveness of prosecutions. Source: NFER research 2003, 2004.

Public interest debate

Non-attendance at school has a high profile because of its perceived association with youth crime and anti-social behaviour, leading to underachievement and social exclusion. Measures to ensure children and young people attend school regularly are seen positively although there is awareness that national rates of non-attendance have never been higher.

The above study did not raise any concern about publicising the names and identities of the children or their parents. It also highlighted the hypocrisy when those who disobey the law and their parental duties are not only profiled in the local media but it also is perceived at having a positive effect on the attitude of the Local Community.

It also notes the perceived association with youth crime and anti-social behaviour. If the Government actually cared for the children it would not only perceive but have properly researched the links strongly between fatherlessness and teenage pregnancy, delinquency, truancy, drug and alcohol abuse, self harm and mental health issues.

Disobedience of a Court order is routinely stated by the Judiciary to be an issue they cannot enforce. A few high profile cases would no doubt have a similar effect on the defaulting parent. Yet '*Any court that does not enforce its own orders is a sham.'* LORD FILKIN, MINISTER FOR THE FAMILY COURTS, JANUARY 2004

Parents are named, photographed as well as the children in divorce cases of the rich and famous, truancy cases in the Courts, anti-social behaviour orders, juvenile delinquency, child abduction and murder cases as well as in theft and other criminal matters.

The Court of Appeal is an open Court. The children are regularly named. People don't go running to see the show. The Local magistrates Court is not inundated with nosey neighbours. In Scotland the

Family Court is mostly open and has caused no harm from this. Alberta, Canada has open Courts yet there is no wish to return to closed Courts. The excuses being fathomed are hypocritical of the judiciary and are more to hide what happens that is often unlawful and to conceal abuses of power than to protect the welfare of children.

The Judiciary cannot hide behind the mantle of the children's best interests in family court cases of the masses when only truly open Courts can show the decision making process and the banalities of the judiciary in destroying families.

A prime example is that of Mr. O'Connell with public judgement on Friday August 25th 2006. In that case the Judge names the father and the initials of the children. The previous judgement referred to gives links to the region. So already in the public domain are the name, initial and area where the children live. What is fundamentally missing from that case is the decision making process involved from CAFCASS, Local Authority Social services, judiciary, the arguments put to the Court and the evidence. His open letter to Lord Justice Wall is attached. It will be plain that his complaint is that the process by which the judgement was arrived at was fundamentally flawed.

Open Courts are not a panacea for all the ills of the Family Court system but it would indeed be a start. The Judiciary will not shake off the mantle of bias in secret Courts. In the above judgement LJ Wall stated that ''This judgment is being handed down during the period in which the government is consulting on the question of transparency in family proceedings. This is a consultation which I welcome. For too long the family courts have been the subject of the *canard* that they administer "secret justice". Anything which shows the proper working of the family justice system is, in my view, to be welcomed. '' and ''Amongst the advantages of transparency, it seems to me, is the opportunity to dispel the myth that there is a gender bias against fathers within the family justice system, and that the bias operates, in particular, improperly to deny non-residential fathers contact with their children. I do not doubt that there are cases in which contract between non- residential fathers and their children is not ordered when the principal reason for the breakdown of contact is the attitude of the children's mother. But in my experience, it is far more common for contact to break down due to the behaviour of the non-residential father. ''

Lord Justice Wall misleads himself. The Courts are biased against fathers in private law and biased against both parents in the adoption industry. The canard that they administer secret justice is incorrect. It should read secret injustice and in the case of Mr. O'Connell giving sole residence to a mother known to be violent and abusive to the children. We have a number of well-evidenced cases of wrongdoing.

The proper matter here is the accountability of the judiciary for errors, wrongdoings, misapplication of the law, cherry picking matters and ignoring their own case law and human rights law.

We find it amazing that the judiciary can continue misleading the public. You can fool some of the people some of the time, but you cannot fool all the people all of the time.

The main problems that we have found in the closed courts are summarised below;

Families and usually mothers face the unquestionable powers of the Social Services and CAFCASS Guardians who are in effect unaccountable to anyone despite what transpired in the Lillie and Reed case, the Victoria Climbie enquiry, Chloe Murray and other well documented abuse investigations – however nothing has changed.

There is a bias in treatment of men and women involving statutory law :

a) Involving fathers (in majority cases in private law).

b) Families where children are taken away without grounds or sufficient grounds – there is a hidden Government targets similar to US in terms of funds received to a number of children taken.

c) Hypocrisy of the UN, Judiciary and successive Governments.

Litigant in persons (usually fathers again in private law) are effectively abused by the system including the judges and where mother's solicitors are involved, aided and abetted by the judge sitting. The same scenarios are played out in Public law against both parents and mothers:-

a) Often the files given to the father do not contain all the documents sent to the Judge - and in some instances the documents contain false evidence and consequently were unaware of their existence or able to challenge them.

b) Often there are bench memorandums - these are advice given by a barrister which at the end of the day is read by the judge - thus the whole exercise is a charade.

c) Very often the judges are either not interested and or insufficiently experienced to understand the intricacies of the family law and human Rights and CPR rules.

d) The mother's solicitors often break procedure rules but if a father does then he is immediately penalized.

e) Failure of the legal practitioners and others to obey court orders. Failure to properly instruct on the basis of the court order is accepted but this does not apply to a Litigant in Person (LIP).

f) CAFCASS and/ or Social Services are beyond reproach i.e. they will present "lie and distortions" as facts and the court will accept this without putting them to proof. If a LIP were to question CAFCASS and or Social Services – the wrath of the Court is brought to bear upon him.

g) Documents have been found to exist after the court hearing that were before the court yet not served on the LIP.

h) The transcripts of judgments and/ or hearings in cases bear no resemblance to what transpired at Court.

i) Judges introducing material and or argument which neither party raised.

j) Once a judge at the lower courts a make a mistake - all other courts will attempt to cover it.

k) Judges often assisting solicitors by giving hints and/ or directions against Lips.

l) Often any unsubstantiated allegations made are also sent to father's employer and he loses his job, children and house- effectively he is on the street (there was a BBC report on the high % of divorced fathers on the Street).

m) Failure of Judges to ensure that Court orders are obeyed by all – it openly ignored by mothers and family court practitioners but LIP is penalised if he fails to comply.

n) Father can be arrested even when the children do not want to return to their mothers. Children have even run away but have been returned to their mother. Mothers are hardly ever investigated even when there is ample evidence of mother’s misconduct. Note there are very few instances where mothers have been similarly treated to fathers.

Hypocrisy of the Judiciary i.e. naming them in cases such as truancy, ASBOS, juvenile

delinquency, divorce cases of the rich and famous but cannot be named in Family Law cases of the masses.

Legal Aid is easy available for women in private law but sadly missing in the case of fathers/ men including legal aid from two jurisdictions at the same time.

Courts do not accept Parent Alienation Syndrome as it is not in DSMIV but accepts Battered women syndrome in Criminal Court – yet **it is neither recognized nor is it in the DSMIV! PAS affects women now as well as men but to the child it is severe emotional abuse.**

Men do not get parental responsibility automatically but are expected to pay child support irrespective – draconian powers to collect are such that most men lose everything when unable to meet the demands of collection agencies and in some cases seeing their children is directly linked to payment.

Men/ fathers /grandparents are expected to see children rarely or only under close supervision but:

- Angela Cannings and similar cases did not have unsupervised contact on acquittal on appeal in a criminal case despite having been in jail for some two years.

- Soldiers returning from Iraq or other missions overseas are not required to undergo supervised contact on return.

- Sailors at sea, particularly for example submariners who often spend a minimum of six months away without any contact whatsoever are not required to undergo supervised contact on return.

- School teachers/ nursery workers and other child welfare professionals are not required to undergo supervised contact.

- Social workers with serious criminal records are not required to undergo supervised contact.

- Anyone accused of criminal acts who have spent time away from their children in prison including foreign jails are not required to undergo supervised contact on their release.

► Guilty criminals released from incarceration are not required to undergo supervised contact on release.

► Those wrongly incarcerated in Guantanamo Bay are not required to undergo supervised contact on release. They can also rely on the Magna Carta in the Courts

► Foster carers are not required to undergo supervised contact when taking care of children placed with them by social services.

►. Children abducted abroad are returned to their non abducting parent without any supervision even after an absence of four years. I have already provided an example to the Court

► The state authorities are so good that they failed Victoria Climbie and returned her to the female primary career (her aunt) as she had apparent good attachment and therefore her abuses could be excused.

Summaries of examination of research shows that:-

Research carried out in the largest study known of is given below: National Clearinghouse on Child Abuse and Neglect Information http://www.calib.com/nccanch

Child Maltreatment Child Maltreatment 1999 U.S. Department of Health & Human Services Administration for Children and Families Administration on Children, Youth and Families Children¹s Bureau**.**

Neglect:

Mother alone or with an other 59.9% Father alone or with an other 13.4%

Abuses

Physical abuse:

Mother alone or with an other 42.9% Father alone or with an other 27.9%

Sexual abuse:

Mother alone or with another 14.9%n Father alone or with another 22.8%

Fatalities:

Mother alone or with an other 47.8% Father alone or with an other 11.8%

A further sample of research reveals that;

► 40% of mothers reported that they had interfered with the father's visitation to punish their ex-spouse. ["Frequency of Visitation" by Sanford Braver, American Journal of Orthopsychiatry]

► 50% of mothers see no value in the fathers continued contact with his children. ["Surviving the Breakup" by Joan Berlin Kelly]

► 37.9% of fathers are denied any visitation.

► 63% of youth suicides are from fatherless homes.

[U. S. D.H.H.S. Bureau of the Census]

► 90% of all homeless and runaway children are from fatherless homes.

► 85% of all children that exhibit behavioural disorders come from fatherless homes.

[Center for Disease Control]

► 80% of rapist motivated with displaced anger comes from fatherless homes.

[Criminal Justice and Behaviour, Vol. 14 p. 403-26]

► 71% of all high school dropouts come from fatherless homes.

[National Principals Association Report on the State of High Schools]

70% of juveniles in state operated institutions come from fatherless homes

[U.S. Dept. of Justice, Special Report, Sept., 1988]

► 85% of all youths sitting in prisons grew up in a fatherless home.

[Fulton County Georgia Jail Populations and Texas Dept. of Corrections, 1992]

► Nearly 2 of every 5 children in America do not live with their fathers.

[US News and World Report, February 27, 1995, p.39]

► There are: 11,268,000 total custodial mothers 2,907,000 total custodial fathers.

[Current Populations Reports, US Bureau of the Census, Series P-20, No. 458, 1991]

What does this mean? Children from fatherless homes are:

►4.6 times more likely to commit suicide,

►6.6 times to become teenaged mothers (if they are girls, of course),

►24.3 times more likely to run away,

►15.3 times more likely to have behavioural disorders,

►6.3 times more likely to be in state-operated institutions,

►10.8 times more likely to commit rape,

►6.6 times more likely to drop out of school,

►15.3 times more likely to end up in prison while a teenager.

(The calculation of the relative risks shown in the preceding list is based on 27% of children being in the care of single mothers.)

And — compared to children who are in the care of two biological, married parents — children who are in the care of single mothers are:

►33 times more likely to be seriously abused (so that they will require medical attention), and 73 times more likely to be killed.

A report by Civitas, campaigning for a civilized society published in 2002, blamed 'fatherless families' for increasing crime, drug taking, and educational failure. The report said that children from fatherless families are:

Are more likely to live in poverty and deprivation

Are more likely to have problems in school

Are more likely to have problems of socialization

Have higher risk of health problems

Are at greater risk of suffering physical, emotional or sexual abuse

Are more likely to run away from home

Are more likely to experience problems with sexual health and teenage pregnancy

Are more likely to be on income support

Are more likely to experience homelessness

Are more likely to offend

Are more likely to suffer long term emotional problems

Are more likely to suffer from psychological problems

Sample evidence of widespread, systematic and persistent abuses of power by the judiciary:

- Lord Justice Thorpe was advised like many others of the failings in the family division in 1998 and 1999. As the President of National Council of Family proceedings he was informed of cases such as those below yet did nothing:

- Contact held at ninety minutes a week (supervised) because the child weighed less than average at birth. No other defects or reasons.

- Overnight contact was with-held for the third year because the father fed the child at lunchtimes. Child ate it; therefore was hungry and underfed. Contact denied.

- Father wore a suit for the first time to see his child. Child did not recognise him, Court told and accepted the child did not respond to father's affection. Court orders no contact for two years.

- The mother denied contact for six months. During a 15 minute supervised session with two court welfare officers making notes on a game of snakes and ladders; child throws dice off board and therefore court accepts recommendation of no contact because of child's aggression towards the father.

- In yet another such case, mother refuses all contact; CWO does not interview the mother or child. Father wants contact. CWO advises no contact on the basis that the parent's attitude will have to change. Courts give no contact for a further one year and last known of to be continuing.

- In one incident outside Court 32 on the 23rd January 2003, Honourable Mr Justice Singer was loudly heard saying to a child, "If you don't go with your Mum, I'll put you in a place where you can't see your Mother or your Father - How do you like that?". He was assisted by Mrs Susan Cheesley, the Acting Deputy Tipstaff and a CAFCASS officer Mrs. Raleigh, see; (http://www.home.ican.net/~kidshelp/Suspended-Page.HTML). These are not uncommon scenes as most children will tell anyone who listens to them.

In this case, the child had been badly beaten by his aunt (a social worker) and mother - police refused to intervene, and so did the court.

- Dame Justice Hale: in a case where a father was appealing an earlier decision of only one hour contact per month, concluded that 'this appeal is unmeritorious'.

- Judge Catlin: a) when a mother refused to obey an order for shared residence, he ordered the cessation of all contact between a father and his two sons in response to unsubstantiated charges of abuse; b) at a subsequent hearing 12 months later, when all charges of abuse had been dismissed by the investigating officer, he ordered 1 hour of contact between father and son per month.

- Mister Justice Sumner: ordered costs against a father who sought summer holidays with his child.

- Mister Justice Johnson: ordered a father declared a vexatious litigant for seeking more than one overnight per fortnight with his 5-year old son. Upheld on appeal by LJ Thorpe.

- Mr Justice Sumner: 'It is simply not on' for any parent to return a 3½ year old child home as late as 6 pm on a Sunday.

- District Judge Kenworthy-Browne: A child of 3 'will have developed no Christmas associations with the father, and even if he has spent Christmases at the father's home, he will not remember them. As such, he will not expect increased contact with his father over the holidays.'

- District Judge X (case pending): ordered the cessation of all contact between parent and child, with no review, 'in order to try to move forward and restore the relationship.'

- Judge Segal: cancelled after 30 minutes a full hearing at which the father sought any summer holidays and rescheduled it for after the summer. Upheld on appeal.

- District Judge Lipman: ordered that a father be allowed only 2 weeks of holiday (out of a possible 13) per year: "You have the midweek contact (3 hrs per week) instead of this."

- District Judge Hindley: dismissed a father's application to phone his 7 yr old daughter on Christmas morning calling it 'too disruptive - she would be opening her Christmas presents.'

- Judge Milligan, to a parent who had been unsuccessfully trying to see his child for 2 years: 'This is a father who needs, in my judgment, to think long and hard about his whole approach to this question of contact and to ask himself sincerely whether in fact he seeks to promote it for his own interests dressed up as the child's interests.'

- District Judge X (case pending): ordered that a father who had not been

allowed to see his children for 4 months should have his case deferred for another 4 months pending investigation of an unsubstantiated 1972 domestic disagreement from a previous marriage.

♦ Mr Justice Cazalet: in hearings spaced over 2 years 1) ordered end of Friday overnights on grounds that the child had to rest after school, and 2) ordered end of Saturday overnights on grounds that she had to rest all day Sunday before school on Monday.

♦ Deputy District Judge Pauffley, in raising a father's contact to 18 hours per month after 1½ years of litigation: 'What will never be helpful is for the father to see his contact in terms of mathematical division. Apparently he is running at a disadvantage of 999 to 1… the court does not look at it in those terms.'

♦ District Judge Thomas, in reply to a father who had been cut off from all contact with this three children for six months: 'And I see that you would like me to grant an Order that the mother file a statement to show good reason why there should not be normal contact. Well, I'm not going to do it!'

♦ Judge Calman ordered that a father, who lived within 300 yards of his son's primary residence, should never answer the door when his son rang.

♦ Rt Hon Lord Justice Thorpe, in rejecting the appeal of a father who wanted to cross-examine a Court Welfare Officer (whose evidence prevented him from seeing his children), affirmed that 'there is no right of cross examination of Court Welfare Officers.'

♦ Mr Justice Wilson, acting against what he called 'the deep wishes and feelings of three intelligent, articulate children,' ordered the end of all direct contact with their father. Upheld on appeal by Butler-Sloss, LJ.

♦ Judge X (case pending): after repeat applications about serial breaches of a contact order since early 2001, ordered that the issue be reviewed in late 2002.

♦ Mr Justice Munby ordered the end of all direct contact between a father and his three children while noting that the mother 'wished the children could have contact with the father. She said there was no need for all this litigation. The children should see the father."

♦ Judge Segal postponed a full hearing in order to obtain a Court Welfare Officer report on two parents who had brought no charges of misconduct against one another by stating: 'Well, I think both parents have fallen over backwards to avoid causing the child any sort of harm, but a child always suffers when a marriage breaks down . . . You see, it is possible to kill with kindness by doing too much.'

♦ Mr Justice Sumner reproved a father who had made one application to the court over two years of litigation, and sought more than twenty-six nights of contact with his child per year: 'You feel better because you can put

pressure, you can bring everybody to court.'

♦ Judge Turner, in reply to a parent who sought to question a Court Welfare Officer's report: 'That confirms my suspicions. This is what members of the public do when they disagree with the recommendations. I believe that its totally wrong that members of the public can challenge Judges and Court Welfare Officers. Officers should not be subjected to it. There is a procedure outside the Court about making a complaint against the Judge. Members of the public should not have the right to make complaints."

♦ Judge Agliomby, on refusing overnight contact for the third consecutive year: 'The point that struck me most was that the very first question the father asked the mother was whether they might not get on better if she let him see the child.'

♦ Judge Lamdin dismissed a father's request (after three years of litigation) for any overnight contact with his six year old on the grounds that 'the child is growing up knowing his father, and that what we are talking about, i.e. overnight staying contact, is something quite different.'

♦ Judge Kenworthy-Browne, known by the staff at First Avenue House for repeatedly bringing his dog to court, rebuked a litigant-in-person for not wearing a tie.

♦ Senior District Judge Angel misinformed a complainant that 'there is an unrestricted right of appeal' in contact cases. (There is, in fact, little if any right of appeal.) When this was brought to the attention of the President of the Family Division, her office replied that she 'considered the matter closed.'

♦ Mr Justice Munby sentenced a father to four months in prison for giving his children Christmas presents (a bike, a camera and a walkman) during a scheduled contact meeting. Upheld on appeal by Thorpe LJ and Butler-Sloss LJ.

♦ Judge Goldstein, after a father filed a complaint against him, ordered all contact between that father and his children stopped for three years. Overturned on appeal by Butler-Sloss LJ, who described the judge's behaviour as 'outrageous.'

♦ Judge Plaskow rejected a father's request for overnight contact with his 4-year-old, and ordered court costs against him, on the grounds that the child might require a special diet.

♦ Judge X (name withheld by litigant) told a father who sought more than 2 hours contact with his young child per fortnight that 'it may well be that the father is being too possessive.'

♦ Judge Agliombi warned a father who was arguing that costs should not be ordered against him because the mother was depriving their child of a father: "If you go on like this you stand in great danger of never having staying contact with your son."

♦ Judge X (case pending) ordered that a father, who had waited seven months for a full hearing without seeing his children, be permitted for six months to write them no more than one card/letter every three weeks, without any direct contact.

♦ A judge invented a hearing that had never taken place on October 5th 2000 in order to put more conditions against the teacher father. Same judge accepted a social worker under oath as stating 'I can tell if someone is emotionally unstable over a mile away, I do not need to see them, I can just sense it.'

♦ Judge Lloyd ordered that an ordinary father be permitted to write his child once per fortnight on the condition that the letter's contents be reviewed by an officer of the court.

♦ LJ Ward C v C The judge accepted that the Court had been biased against the father, and stated that the father had suffered discrimination not only as a father but as a black Asian father. He described the mother as "I am very critical of the mother….Her conduct was the lowest level totally inconsiderate…. It was inconsiderate, it was discourteous, it was unfeeling. It was not the decent way parents behave towards each other. At worst, it was thoroughly deceitful….It was a deplorable bit of behaviour. She should be ashamed of herself….I will direct that a copy of this judgement be prepared and sent both to the father and, more importantly, to the mother; more importantly, because I think that she should read it, reflect upon it in the deep dark hours of the evening, and ask herself whether this degree of hostile conduct to the father is in fact beneficial for her children." The extremely forceful findings of LJ Ward (Re C [2004] EWCA Civ 512) were upheld by LJ Thorpe & Mr. Justice Munby (Re C [2004] EWCA Civ 1056). Despite these findings the Application for leave to Appeal were refused.

♦ A judge denied a child's daytime wetting even when presented with three years of paediatric notes to prove it.

♦ HHJ Milligan refused a father a McKenzie friend on the grounds that he could complete a bundle i.e. number pages in order and on hearing an Application to recuse himself, after giving a judgement on the question of the refusal of His McKenzie friend then gave a speech on his views that there had been no wrong-doing by himself or the State agencies and clearly had a pre-determined and closed mind before hearing the case.

♦ Mr. Justice Sumner on Appeal denied the father even contact because although admitting that the mother's parenting was poor, (the father was described by the social worker as ''I wish all fathers were as caring as you''), the judge's concern was that if he had contact it might undermine the mother's relationship with the children!

♦ Another father was criticised for not singing to the children by the CAFCASS officer whilst in the bath in order to criticise his parenting skills and the Local Authority used an allegation of domestic violence from one

year prior to the taking of a child into care in order to justify the Local Authorities actions.

- In another case the judge believed a mother who had already been criticised for being deceitful and acting against the best interests of the children yet although he could not find the order in the court file which the mother (again untruthfully) stated had been made - but had not in fact been, still made an order against the father.

- LJ Scott Baker hearing an Appeal against an order for supervised contact from a proven innocent father, the victim of false allegations of sexual abuse, failed to address any issue of fact or of law and blindly agreed with the lower Court judgement whilst failing to address the issues including child abuse by the mother. He then refused the father permission to obtain a transcript of the hearing.

- In H V H the Appeal Court upheld the lower courts judgement agreeing with the CAFCASS officer refusing to allow a German national father to speak in their usual language, German, to his children.

- LJ Potter in Davies v Davies on 17th february 2005 stated in paragraph 34 that 'dishonesty, fraud and non-disclosure by the respondent – that was raised before the judge and it seems clear that the what he did was to observe realistically that it was unlikely that the errors in the affidavit or the dishonest statements alleged by the applicant would be considered by anyone as perjury. No doubt that was a reference to the fact that it is unfortunately the case that, in proceedings of this kind, parties are frequently less than frank with the court. Perjury proceedings, however, are rarely instituted or followed.'

The well-known Pellman's solicitors gave a summary of the issues involving the destruction of marriage copied below;

ADRIAN J.G. PELLMAN, LL.B. SOLICITOR London, September 2, 1993

Dear client

You asked me to set out shortly, for your meeting with (name), a summary of what has happened in Divorce Law since 1970, to lead to the present state of affairs.

Essentially, what has happened is that the Courts have virtually turned the Law upside down, contrary to the express intention of Parliament, and created a situation whereby people can break up marriages and obtain the same financial benefits as would only have been received had the other party broken up the marriage. Since actions may be taken without consequences, there is no incentive to refrain from those actions.

Prior to 1970, the position was quite simple. Divorce could only effectively be obtained for cruelty (i.e. very unreasonable behavior causing injury to health), desertion or adultery. There was no liability in law to maintain the other party if they deserted, or if a Court had found them guilty of cruelty or

adultery. This was a very real constraint in that somebody who was bored with their marriage had to consider the consequences. If the they walked out they lost their maintenance. They therefore had to make a value judgment as to what to do.

Parliament, in passing the 1969 Divorce Reform Act., which became the 1970 Act, and is now the 1973 and 1984 Acts, made absolutely clear its intentions, as shown in the House of Commons Committee Report from the Bill. What Parliament contemplated was the following:

I. Cruelty would be replaced by unreasonable behavior to deal with the common situation of somebody who was subject to cruel behavior but was not affected in their health.

2. Those who wished to bury their marriage by agreement without proving the matrimonial offence could do so on the basis of two years separation and Parliament clearly contemplated that that would be in the vast majority of cases. This was in fact not so.

3. Those who formerly could not obtain a divorce because they had no grounds could enforce a divorce after five years separation provided proper financial provision was made for the innocent party.

The conduct provision remained, so that if a party had committed cruelty or adultery they could not expect to be maintained, and the common law rule that a party in desertion had no right to claim maintenance also was unaffected. An attempt was made by the “Reformers” to overturn this in the Committee stage, but it failed.

The Courts proceeded to turn this upside down. The language of the Act in relation to conduct was virtually the same as it had been since the 1857 Act, and there had been no changes by way of developments in case law which altered in any way the statement of the law that I have set out above. Notwithstanding this, the Courts made two fundamental changes in the Law which have brought about the wave of divorce.

The first of these was to apply a subjective and not an objective test to unreasonable behavior, so that behavior which the average man or woman would not regard as unreasonable was treated as unreasonable if the party claiming it said that they found it unreasonable. This opened a floodgate of petitions n grounds which Parliament never contemplated, and this round became by far the most popular ground for divorce whereas it had been the least used (under the name of cruelty) before he 1970 Act.

The Courts were supported by the Law Society n this, which proceeded to grant legal aid to bring contested divorces but to refuse legal aid to those who had defended upon the ground that the marriage must have broken up or there would not be a petition. If Parliament had intended divorces not to be defended it would have provided for them not to be defended. Effectively the Courts brought in divorce on demand in express defiance of Parliament.

The second development was a 1974 case in which it was held that ‘conduct’ was no longer relevant unless it was “gross and obvious” and effectively the Courts rarely hold any conduct to be relevant, or if they do, pay lip service to it and otherwise ignore it. If the wife broke up the marriage the Courts would treat her in the a way as if it had been her husband who had broken up the marriage. Whereas if the husband did break up the marriage he could rely upon being treated with greater harshness.

The other subsidiary development was that the Courts announced that they would not enforce their own access Orders. The affect was rather like saying that in future burglars would not be prosecuted. You get a wave of burglaries. The specious ground for this was that if the custodial parent was upset the child would be upset. You might say to the contrary that the image to the child not seeing the non custodial parent would be much more serious.

We tried to keep this as short as possible. Essentially what it boils down to is that:

The Courts have quite willfully frustrated the intentions Parliament. I was actually present at a seminar when the 1984 Act, which was supposed to have altered things, had just been produced and an eminent Barrister said that “it was the opinion of the judiciary that nothing should change”.

Just as courts had turned the 1970 Act upside down they simply denied the spirit of the 1984 Act.

Since the Courts take the view that wives may break up the their marriage without any consequence, it is not surprising there is more of divorce. My own observation of the “unreasonable demeanor petition” is that the vast majority are thoroughly bad and reflect no more than boredom with the marriage, and more so the majority of cases what triggers off the divorce is the arrival of the boyfriend hidden in the background.

Sincerely.
ADRIAN J.G. PELLMAN, LL.B. SOLICITOR

The Pellman Brief

CHAPTER 2
THE DIVORCE LEGISLATION OF 1971-1996. RETROSPECT AND PROSPECT.

Introduction.
As a divorce practitioner with many years experience I find that most clients come to mc in a state of total bewilderment and astonishment over what happens to them in divorce proceedings.

Injustice in Secret Courts
What astonishes them is the perceived injustice, the abandonment of any generally recognized principles of justice and morality, and the hostility to men, which characterize the divorce courts. The bewilderment results from a widespread lack of public understanding – until themselves involved - in the way in which the Divorce Courts (not the weasel words ‘Family Courts” for courts which exist to break up families) have, over the past 25 years, deviated from the laws as Parliament intended and expected them to be applied, and from the generally held views of men and women as to justice and fair play.

This bewilderment is found whatever the degree of education of the client. Its prime cause is the conspiracy of silence in which only a distorted and limited picture emerges from the closed doors behind which matrimonial cases are heard - in secret courts such as have not been seen in Britain since the days of the Star Chamber. Behind closed doors, and with closed eyes and ears, the legal and social work professions operate in an “invented world”, where it is assumed that their actions are fair and just, and will be so regarded and approved of by right-minded people, and the general public. it also results from the approach of the media, who tend to accept without question the smooth and misleading picture put to them by the lawyers and social workers and,
with a few honorably exceptions. tend to suppress any alternative view.

This deviation from justice began with the 1969 Divorce Reform Act and the 1970 Matrimonial Proceedings and Property Act. For a number of years pressures had built up from various influential quarters for what was described as ‘reform” of the divorce laws. The public and Parliament were sold

the idea that there were many people who could not obtain divorces although they had lived apart for many years, who ought to be free to do so, and many others who wanted a divorce without the need to allege a matrimonial offence against the other. This seemed just on the face of it. just, which was why there was so little opposition to proposals for change.

The Church of England further muddied the waters by its call for easier divorce but with an inquest into the causes of each marital breakdown. The divorce activists, working to a hidden agenda, used the Church to gain its support, but made sure it got something very different from what you hoped for.

The Activists for 'Reform"

Among those most actively pushing for changes in the divorce laws. principally the divorce lawyers and senior judges, and the upper intellectual and professional classes, there were a range of motives but among the lawyers particularly, a hidden agenda. The intellectual and professional class, as in many other fields, suffered from the bizarre belief that, if the machinery of conflict were removed or minimized, people would resolve their differences in a civilized mariner. Tame (1) wrote in the 19th Century. that the principal cause of the French Revolution had been that the governing classes were moved, above all oilier things. by an extreme horror of conflict and violence, and preferred the lives of maniacs and malefactors to the maintenance of order. Corelli Barnctt (2) wrote a few years ago that the educated classes of Britain not only
thought the world ought to be a place where civilized people settled their differences over tea in the drawing room, a noble ideal, but in an extraordinary delusion really thought it was such a place,. They believed, and still profess to believe, that if the causes of divorce and the parties behavior were excluded from discussion conflict and bitterness would cease They entirely failed to realize that people in marital conflict are fighting over the most important matters in their lives, their children, and all they have worked for, and that such fundamental issues can usually only he resolved by conflict. They also failed to realize that there is no greater bitterness than that caused by injustice. In a word, they thought that weapons cause war, not that war causes
weapons, and failed to understand that most people of any spirit prefer conflict to submitting to injustice.

The Naiveté of the Educated Classes

On the whole, the educated classes, except where they themselves have been involved in divorce, still naively believe they have a civilized divorce law, and the serious press is constantly full of letters from well-meaning people who say that those in divorce need sympathy and help in "fairly distributing their property and helping the children. They fail to realize that for the bulk of the population there is not enough property to distribute, fairly or otherwise, and that all, whether rich or poor, regard their property as theirs and not something to be taken from them or as one eminent judge described it, "redistributed within the family. A woman solicitor even wrote to the legal press saving we should develop a system in which all Court Orders were Consent Orders! This is the fear of conflict of which Taine wrote. In the real world, however, two nations who wanted the same piece of land fought for it, and in the domestic sphere two people who
wanted the same house or custody of the same children also do. This is blindingly obvious to all but the 'civilized' classes. People in the real world continue to believe that it is 'their" child and 'their' house, and will not accept that the Olympian disposal of their child and house to someone else is some how "fair" and thus to be meekly accepted with a pat on the back from the social workers. In the invented world of the lawyers and social workers, however, the holding of such views is seen as mad or bad or both, and is guaranteed to incur judicial hostility. I have even heard one woman lawyer say how much she admired the 'moderation and reasonableness" of men who voluntarily gave up all contact with their children because their wife objected to it. What I suspect underlies he desire of. the lawyers. the social workers and the 'well meaning' classes to avoid conflict in divorce is the delusion that their anti-male attitudes are shared by the general public and that, if the machinery of conflict were somehow removed everybody would
happily accept the diktats of the divorce courts.

Behind the scenes were other forces, most strongly represented in the legal and social science professions, who had a fanatical belief in feminism in the widest sense. They wanted a system in which women had no obligations or duties in marriage, but unqualified rights regardless of conduct. I well remember being told by a lady barrister in a well known divorce chambers that most of the men in her chambers, Eton and Oxford types, considered that any woman who married, however briefly, should he entitled to be kept in comfort for the rest of her life without working, regardless of her conduct. The rise of this element, always strong among the lawyers, was compounded by the growth since the war, as a result of widespread university education, of a large arts graduate intelligentsia, whose views on social and moral issues had come to depart radically from those held by the general public.

The Debate in Parliament

All these various elements made their big effort in the House of Commons Committee stage of the 1970 Act when they attempted to have conduct deleted as an issue in maintenance and capital orders. Until then the law had been clear for generations, adultery. desertion, and cruelty were a bar to any claim of maintenance and therefore a heavy deterrent to breaking a marriage. If a woman was “bored” with her marriage or ‘fancied” somebody else. or “needed space”, she had to make a value judgment before breaking up her marriage. Was it so unacceptable that she was prepared to forgo the financial benefits?. The Committee threw this out with great firmness. And a reading at the records of the Committee in the House of Commons is a salutary exercise. The
Committee thought. outrageous that conduct should be irrelevant, and pointed out that such move would only lead to widespread divorce and injustice.

One other move by the “reformers as I shall now call them, was also defeated, although actually introduced by the government a statutory requirement for the courts to seek by financial orders, to maintain the financial position of the wife only, but not that of the husband. The ‘reformers” had been defeated. But this defeat was short lived.

The 1970 -73 Legislation

The 1970 Divorce Act preserved conduct, and the only significant chance in that respect was that cruelty as a ground for divorce was replaced by unreasonable behavior, the difference being that the element of injury to health was no longer required. There was no suggestion in Parliament that the test of acceptable behavior should change.

Further legislation followed in the form of the Matrimonial Causes Act of 1973 that was, in many ways, a consolidating Act for the 1970 Act, and the associated legislation that had taken place immediately before and after it. These Acts had answered the pressures of the ‘reformers' by adding two additional grounds to the existing three grounds for divorce The existing three had been adultery, desertion, and cruelty (i.e. behavior plus injury to health). The two additional grounds were: two years separation in the case of consent by both parties to divorce, or five years separation if one parties did not consent. The two years separation plus consent ground catered for the more sensitive elements of the educated classes who, in the case of genuine mutual consent, were repelled by divorce petitions containing allegations against the other party and wanted to do everything “by consent". The five years separation ground catered for those caught
in the position where they could never obtain a divorce for lack of grounds. It was quite apparent that Parliament contemplated three classes of divorce: 1) a compulsory divorce after five years separation, 2) a consensual divorce after two years separation in which people could make their own arrangements, and 3) a non-consensual divorce where one party did not want a divorce, or in the case of adultery, desertion unreasonable behavior (i.e. cruelty, without the need to prove injury to health). It was naively anticipated that most divorces would be by consent. This never
proved to be the case. The financial provisions rested, as to the criteria for making orders, on a more detailed reiteration of the provisions, based on conduct, which had been in the original 1857 Divorce

Act. The courts had to make such order as was just “having regard to the parties conduct.”

Parliament’s Intentions Frustrated

The excesses of the reformers had apparently been frustrated by Parliament, but the Courts proceeded immediately to undermine Parliament’s intentions in a devastating manner. First, they ruled that the test of unreasonable behavior was subjective as opposed to objective, so that conduct which an ordinary reasonable person would find insufficiently unreasonable to justify divorce was nevertheless to be held sufficient if the petitioner claimed to find it so (3). This opened the gates to the ridiculously weak “behavior” petitions of the past twenty years, and led to a widespread practice of anybody (particularly a man) who sought to defend a weak “behavior” petition being subjected to hostile assault by judges. In addition, such litigants received extreme pressure from their own banisters and solicitors, who would tell them that there
was no purpose in defending, since the marriage had broken down. Legal aid was usually refused although sometimes granted to women. The Courts themselves, in defiance of Parliament, had brought about the “divorce on demand” which most of the 1awyers and academics favored.

The Removal of Conduct

The second and fatal step was for the Family Division. in the case of Wachtel (4) to hold that conduct was usually irrelevant in the case of financial matters. This was only partially stalled by the Court of Appeal, which ruled that conduct was relevant if it was gross and obvious. Soon afterwards, the Court of Appeal, differently constituted, held in the case of Rogers (5) that the Wachtel decision was plainly wrong and contrary to the expressed intention of Parliament. This decision, although it appeared in the law reports, was virtually kept out of the legal press, and most lawyers are unaware of it. Wachtel was followed by the courts, and not Rogers, although each were of equal authority. This was a period in which the legal press tended to give great publicity to the views of those who supported the anti-conduct trends, and to ignore the views of those who opposed them. We now know from the recent memoirs of a Judge that this decision
resulted from a private meeting of the Judges who decided this policy approach in secret, over twenty years ago. This revelation has received little publicity beyond an admiring comment in The Times, which seemed to fail to realize what it was saying. In practice it became rare for the courts to find anything ‘gross and obvious or on the fairly rare occasions when it did, to do anything about it. Judicial hostility to raising conduct, at least against wives, became the norm. Finally the Courts abandoned the age old rule that a deserting wife was not entitled to maintenance.

The Courts were required under Section 25 of the Matrimonial Causes Act of 1973 to put the parties in the some position as prior to the divorce so far as possible having regard to their conduct”, and in doing so to consider a number of factors including that of ‘need'. However, despite Parliament having thrown out the reformers attempts to have “need” apply specifically to wives only, “need” became the only consideration that the Courts took seriously. ‘Need was interpreted as meaning getting wife absolute security to the extent that this could be squeezed out of the husband. Whereas, the widow of a Falklands war hero was left to a meager pension, the adulterous wife was showered with sympathy and held to be entitled to the utmost security for the rest of her life. As shown in Wachtel, the orders of the court were made “without having regard to their conduct,” In direct contravention of the Act. The Courts ignored all other statutorily required considerations that involved merit as distinct from need, and in so doing ignored all considerations of justice, “need being the only consideration that involves no “merit”.
A common approach was to give the wife (and her boyfriend) the house on the grounds that they “needed” it to bring up the husband's children. In contrast the husband without wife or children was then told that a bedsitter met his needs.

The “Weak” Behavior Petition

The net effect of these developments was to create a pattern in which spouses, mainly wives, brought weak behavior petitions when they became bored with their husbands or found somebody else.

Husbands were then pressured not to defend themselves and found they were stripped of their assets and children by hostile Courts applying a quasi-Marxist interpretation of ‘need' and a Court of Appeal determined to decide any question in favor of the wife if it possibly could, under the leadership of the same judge who had decided the Wachtel case before it went to appeal.

The Ousting of Husbands from the Home

The “reformers" had thus succeeded in fooling Parliament into passing legislation and then using that legislation to achieve the very opposite of what Parliament had intended, without the public ever being aware until it hit them, and usually not even then. The situation was reinforced and worsened by the domestic violence legislation, coupled with an extremely wide interpretation of its provisions. The Courts made use of a claimed inherent jurisdiction to oust husbands at the slightest pretext, the commonest one being that the wife suffered distress husband to arrive at court to Find his own barrister pressing him to leave those lawyers, like myself, who came along and announced that the husband was not leaving, found themselves the subject of the most indignant and outraged pressure from courts and wives' lawyers alike.

The Courts Held to be Acting Without Lawful Authority

Significantly, in 1984, in the case of Richards (6), the House of Lords held that the Courts had wrongly assumed an inherent jurisdiction arid had been issuing ouster orders for many years without, in many cases, any lawful authority whatsoever. Ouster became much less frequent after that with considerable restrictions being placed on it by the Courts. The bulk of ouster cases I encountered for some years were ones where the pressure came not from the Court, but from the husband's own lawyers. The situation has gradually resumed to the pie-Richards position and the l990 Act, with its absence of references to justice, is highly likely to worsen the position, as most judges are eager to restore the Richards position of ouster on wife’s demand, Indeed, the recent case of the Portsmouth headmaster, ousted from his home, is likely to be the precursor of many more.

Public Bewilderment

All of these developments took place without being realized or understood outside the ranks of those involved in divorce, and it was widely assumed that divorce was as it had been but merely easier to obtain. Those involved in divorce did not really realize what had hit them until it did. Many could not believe what had happened to them, let alone understand it.

Bizarre Processes of Reasoning.

In order to justify their approach, bizarre processes of reasoning were adopted by the Court, which an eminent student of those developments, Dr John Campion, has, as part of the wider picture, summarized in the phrase ‘the invented world. By this he meant a world in which the weird views of the “family" lawyers and social workers were regarded as the only normal approach to human relations, so that anyone who objected to being stripped of their home, property and children, in a way they would not be if they had committed a grave crime, was assumed to be mad or bad. It was a world in which it was normal, right and proper that men who had committed no crime could be stripped of everything, in which the Courts refused to enforce their own orders against wives if they chose not to obey them, in which it was “in the best interest of the family” for children to be deprived of their fathers, and to see their fathers stripped and humiliated, and in which husbands/fathers were not only expected to work to support or at least house their former spouses living with their Children and a new lover, but actually regarded as mad or bad if they raised any objection. There was no hesitation about throwing them into prison if they did not comply with the Court’s order. It was a world in which several very senior judges proclaimed that there was no significance in the “blood tie” between father and child, but only in that between mother and child.

Bogus Principles of Social Behavior.

A number of quite extraordinary principles of social behavior were put forward by the cowls to justify their reasoning, in response to the sense of moral outrage that began to develop among the public. A bizarre view was put forward by the judges that the husband was the “cock out’’ feathering his nest while the wife was sitting at home on the nest, and that the husband could not have feathered his nest were the wife not sitting on it. This has been uncritically repeated throughout the legal profession and the law reports, although even momentary examination reveals it to be manifestly)’ absurd. The man who has regularly worked would, in most cases, have acquired his property, whether married or not. A possible exception is in the case of the man pushed on by an ambitious wife, but then for every man pushed on by an ambitious wife there is likely to be one held back by an unambitious one. Indeed, it should further be pointed out
that the wives who have acquired houses and property would, had they not married, have been unlikely to acquire such property, or even own any property, because of the lower pay of women.

Injustice Better than Conflict.
It was argued that, by stripping husbands of their property without investigating the causes of the marital breakdown, Courts were sparing the parties the distress of conflict and the bitterness which would have resulted from that conflict. If the victim protested, or expressed bitterness at being “stripped", or pointed out that it was being “stripped” rather than conflict to which he objected, judges regarded and treated him as mad or bad. The lawyers would patronizingly boast that they had spared the husband the distress of a Court battle by stripping him at the courtroom door.

Wilful Confusion of Reasoning.
It was said that relationships broke down for complex reasons, and that the Courts could not investigate these reasons in depth. Often true, but irrelevant. What should matter, and to the ordinary member of the public did matter, was who broke up the marriage and that they had objectively substantial reasons, not what the feelings were in a relationship. If this were not so, then, in the eyes of the Courts, marriage as an institution is of less importance than other relation-ships, including cohabitation. It is the contract of marriage, and its breach, upon which Parliament intended the courts to adjudicate, not a ‘relationship’.

The Underlying Prejudice Against Men.
The reality was that the Courts did not wish to investigate the facts, mainly because investigation might reveal matters adverse to the wife, and partly from an Olympian distaste for conflict. The same factors were involved in the reluctance of the Courts to hear the views of children as to where they wished to reside. They might hear what they did not want to hear, children saying that they wished to live with their father. Again, it was said that it was best for the children to see a difficult marriage broken up, and the wife in secure accommodation, preferably with her new “man" to form a new “family”. Why the children should benefit from losing a father, seeing him impoverished, probably losing contact with him, and a decline in their living standards, was not explained. It was only explicable on the ground that the judicially and the bulk of the legal and social work professions saw fathers as figures of no significance. Indeed there many judges, and
many more lawyers, quite prepared to say that they were not in the least concerned with what happened to the husband/father, and often that the ‘blood tie” between father and child was of no significance. The Courts wholeheartedly embraced this view, ruling that, when the parents divorced, there is a new family consisting of the wife, children and the new man. The old family, i.e., the husband, had ceased to exist, except for maintenance, where the courts did not hesitate to say that the husband “ought to be supporting his family”, even if not allowed to see the same family of which the same courts no longer regarded him as part.

New Principles to Justify Prejudice.
The Courts justified their prejudice by developing principles ad hoc, whenever they were necessary to place the wife in a favorable position. If the property was in joint names it was said that the wife was entitled to her half, regardless of the merits and issues, because her name was on the

deeds, in accordance with the law relating to land, whereas the husband was stripped of his half share, despite his name being on the deeds, on the grounds of the wife's "needs". The "principle" which caused the greatest outrage was that adultery by wives could not be criticized because "it took three to commit adultery" - yet another absurd generality without foundation which, significantly, applied only in favor of wives. I remember being in the Court of Appeal, in a case in which a most senior judge, then a household name, who had repeatedly said that wives' adultery was of no consequence, remarked "Your client [a man] has committed adultery". My clients woman Counsel replied "Conduct is not in issue", whereupon the Judge replied "I am not saying conduct is in issue. I merely remarked that your client has committed adultery. My client then found himself going downhill, castigated for adultery, with remarkable speed! Public outrage over these attitudes became so widespread that a Lord Chancellor, in the face of this public outrage over the exclusion of conduct, started to talk about punishing adulterous husbands, while making no apparent mention of punishing adulterous wives at all.

New Judges - Increased Prejudice.
These views persisted and intensified and the practices which resulted became the subject of a rather sick joke in the 1970's; men committed more crime than women because the man who wanted £50,000 had to hold up a bank, whereas the woman had only to take a man with £50000 to the Register Office.

Not only did those views persist but the new breed of liberal judges upheld them much more vigorously. The occasional maverick, brought up in a non 'family law' background or in an older tradition of justice, is dying out. We now have judges who have carried on most of their career in the post-1970 environment. They know nothing different; their attitudes generally are such that it would not occur to them to challenge the injustices which they daily administer, let alone to see them as injustices. and they are further inhibited both by the general tendency of English lawyers to conform and by the national tendency not to think too hard. An illustration of the attitudes of the ear, from which most judges are drawn, was contained in a recent article in a law journal, where comment was made that it was useful that solicitors could appear in the new Patent County Court as barristers appeared to have "problems" about cross-examining female witnesses.

Judges Provide Incentive to Divorce.
Applied to everyday situations, all this meant that the law as Parliament intended it pre-1974 had gone. Prior to then, a wife who deserted her husband was disentitled to maintenance at common law, and could be divorced without maintenance after three years, and an adulterous or cruel wife was divorced usually without maintenance. in none of these cases did she have a capital claim against any property not hers in law. Until only a few years before there had been no maintenance for the child if with a mother in a state of desertion. This was a powerful deterrent to desertion. Those who planned to ditch their husband without good cause had to make a value judgment. If they went off with the boyfriend they received no maintenance and no capital. In the new situation the judges said"if you want to ditch your husband and take a boyfriend we will support you and see that you do not lose out. You can have your husband's money and your boyfriend." They then proceeded to express surprise and even puzzlement at the huge rise in the divorce rates, to become the highest in Europe, without in the faintest degree seeing that they were the cause. Those that did understand it seemed not concerned. If easy divorce without consequenceswas what women wanted, women should have it.

The Corrupting Effect of Injustice on the Lawyers.
The development of judicial attitudes was accompanied by a corresponding corrupting effect on the legal profession. Judges who cease to do justice according to law, themselves come to be indifferent to legal principles, and ordinary principles of justice. Lawyers become similarly infected. The basis of all professional relationships is a duty to the client, the duty in the case of a lawyer being to do his best on behalf of a client, impartially to advise the client, and then to put the clients case and wishes to the

best of his ability, subject to the general limits of professional conduct and keeping within the law.

It soon became obvious that many divorce lawyers (who began hypocritically to call themselves ‘family lawyers”) were not acting in the interests of male clients. Attitudes to male clients often ranged front the openly hostile through the plausible sell-out approach to hopeless defeatism. The quality of advice was frequently poor, helpful case law frequently ignored, and serious attempts to resist or answer claims were not frequently made. A general attitude developed of find out what she'll take and give it to her. So accustomed were wives’ lawyers to meeting no resistance that I found that, if resisted, they either treated the resistance as some type of joke or pretense to impress the client, or exploded with outrageous indignation. One significant consequence of this was that fewer and fewer really able lawyers did divorce work. The quality of divorce lawyers
markedly deteriorated.

The Effect on the Clients.
The hostility of the judges reinforced by the unwillingness of lawyers to stand up to judges, and the prejudices and failings of the lawyers. led to clients frequently not being advised of their rights or their case not pressed in the Courts. What also happened was that Courts often made orders quite beyond their powers if they felt they could get away with it. That is to say, if they felt the lawyers in front of them would do little about it, as was usually the case. Such attitudes spread throughout the profession to such an extent that some firms in London boasted that “We only act for wives”. Solicitors at Law Society conferences called for lawyers to cease to be obliged to act in their client’s interest but, in a new and ominous phrase “to act in the interests of the family”. This was a code word for acting in the interests of the wife, and has become general usage among family lawyers. It became common practice, particularly among barristers, for them to get together and ‘settle' the case usually to the husband's disadvantage. The process of indoctrination began at an early stage. Exam papers with a dozen questions on Family Law contained as many as eleven saying ‘advise the wife”. The tendency of the Englishman not to think had enabled a small and highly motivated minority in brainwash a profession into unthinking acceptance of its views.

The So-Called “Interests of the Family”.
The absurdity of the expression “acting in the interests of the family” is shown when one actually examines it. The only person in Court who is there to act in the interests of the family is the Judge. His function is to do justice between the parties. This is something which they now proudly boast of not doing, saying their function is to protect the wife and children, not to do Justice. The “family” clearly does not include the father The function of the lawyers is to put forward the interests of their women not the interests of the so-called ‘family’. The other principal member of which in any event will have another lawyer. Indeed, the matter goes beyond that, since if the lawyers “act in the interests of the family” as they think they are doing, all they are doing is acting in what they think are in the interests of the family. They may be wrong, and thus do damage to the family. The ultimate line became “putting the child first” which really meant putting the mother first, and this has become the all-embracing excuse for all manner of injustice. Indeed, putting the child first appears to have been the basis of the recently reported case of in re:B (Times Law Report, 9th July,1997) in which a father was barred from seeing his child after the step father threatened to leave the mother if contact were granted. This seems a questionable view of the child’s interests, since continued contact with its father would seem of more importance than any short tem distress of the mother caused by departure of the stepfather. Indeed this law appears to regard fatherhood as of no great significance.

Public Outrage
Increasing public outrage led, by 1979, to the formation of organizations such as Campaign for Justice in Divorce. Vigorous bombardment of the Press and Parliament began to lead to awareness of something being wrong, even though the precise nature of it was not understood. The casualties of the matrimonial battlefield appeared in social gatherings like disabled men after the First World War. in l982 three hundred and fifteen MPs signed a motion to investigate the position. The pressure for

change became so intense that the legal establishment decided that something had to be done. What happened, though was that then effectively seized control of the legislation and through skillful selection of the Committee, and vigorous control of the voting in Parliament, ensured that Parliament never really understood what was being complained about
and, what went through was relatively innocuous. The establishment skillfully conned Parliament and was disastrously helped by many of the leaders of the initial organizations, who went along with what was happening apparently jollied along by the civil servants involved.

The Failure of the First Men's Organizations: the Conduct Issue.
In my view it was an unfortunate feature of those attempting to end the abuses that they failed to accept that, in order to get public opinion going with them, they would have to accept that middle aged and elderly ladies could not be seen to be left for young women and not provided for. This was a major cause of the failure of the husbands groups to achieve wider support. Because the husband's groups failed to push the "conduct" issue, which was the cause of most outrage among ordinary people, and campaigned instead for the total ending of all maintenance, they alienated a larger body of public opinion which would not support this. I cannot over-emphasize that conduct is the key to everything because conduct is the issue that outrages ordinary people, and it
is the abolition of conduct, together with the various invented "principles of social behavior, which has made divorce so easy and tempting to wives, in essence, wives have been told by the Courts that it is right and proper to say, "I don't want him, but I want his money".

What Is Conduct?
What do I mean by conduct?. The Courts will tell you that they have not the time to go into nit-picking issues of conduct and that, in any case. usually one person is as bad as another. The lack of time is a quite extraordinary argument, because the implication is that the Courts are far too busy doing injustice on a production line scale to have the time to do justice on an individual scale. But, importantly, conduct does involve nit-picking issues. To most people, conduct means adultery, extreme violence and desertion and similar matters. Neither men nor women see why the adulterous or deserting wife receives maintenance or is allowed to strip the husband of his
assets. More subtly, though, the real issue relating to conduct is who brought an end to the marriage itself and for what reason. Thus, if a wife breaks up a marriage for no good reason, there is no reason why she should receive maintenance other than her capital contribution to the marriage. It is quite wrong that a wife should be free to say she does not like her husband yet still wishes to have his money.

The current approach to conduct is to exclude it in nearly all cases, unless it is the man's conduct. One other approach has been to limit conduct to the consequences of financial misconduct e.g.,dissipation of assets, and then to top up the award so as to cancel the effect of that conduct. This, at least on paper, has been limited by the 1996 Act provisions which make clear that conduct is not limited to financial misconduct, in practice the courts are likely to ignore Parliament'sintentions, and lawyers will continue to reject conduct as an issue.

The First Men's Organizations Collapse.
The failure of the men's organizations to achieve anything in the 1984 legislation, reinforced by their leaders support of this useless legislation, led to a decline in their membership for some years. Exemplifying the tendency of men's organizations the world over to split and even to litigate between themselves

The Revival.
By the 1990's the men's organizations were beginning to revive under new leadership. The new organizations, of which the United Kingdom Men's Movement was the most significant, had a better grasp of what had happened in the past, and had more defined policies on how to deal with the

problem. They understood the conduct issue more clearly. I had written the original version of this paper in 1988 to create an understanding, precisely because I had watched the men's organizations for many of whom I had acted, floundering. in the dark, railing against the system without understanding its causes. I concluded that I needed to update it to meet the challenge of the 1990's.

The Prospect of Change.
So powerful however, had become the habit of the establishment thinking in this field combined with a lack of public and Parliamentary understanding of its cause - the lawyers – that the prospect of change in the foreseeable future seemed low Change began to come from unexpected sources.

The first was the increasing concern generally, and in the academic field about the breakdown of the family in this country. Second was the Government's desire to save money on Legal Aid.

Social breakdown led to the increasing publication of articles on the breakdown of the family and the injustices in the Courts by outstanding writers such as Martin Mears in the Sunday Telegraph, and other writers in the Daily Mail. Only Martin Mears, however, grasped the importance of the conduct issue and that the attitude of the Courts and lawyers as the cause of the breakdown of the family. The others tended to see the cause as moral decline and the remedy as education in marriage and the seeking of reconciliation in mediation. They failed to realize that if you tell people that they can dump their spouses, and still take their money, all the social workers in the world will not hold them back.

It might have taken many more years for these truths to sink in, and the pressure to do something to develop, but for the Government's desire to save money.

Here two factors came together, the Government wanted to save money, and the family lawyers, and apparently the lawyers who advised the Government, wanted to realize their dream – divorce on demand. This led to the 1996 Family Law Act put forward by the Lord Chancellor.

The Government Proposal.
The Lord Chancellor's proposals, in effect, were for divorce on demand. mediators to solve the financial issues and save Legal Aid money, and a widened power of ouster which was to extend to cohabitees, thus reducing marriage to mere cohabitation. Upon all the evidence, much of the Cabinet did understand what was happening and certainly did not want it, but a small and powerful element did, and forced it through the Cabinet.

Parliament's Reaction.
When Parliament, concerned by social breakdown, considered the legislation, it, as a result of an outstanding campaign by pro family campaigners, indicated that it was beginning to understand a little of what had been happening. All honors are due to the Daily Mail in particular for the way it mobilized opposition so that a strong opposition developed and the situation reached the point where the legislation was threatened with failure. A desperate Government made many concessions which for the first lime may drive in beginnings of a wedge into the present system. Despite us now having divorce on demand, conduct is supposed to be taken into account to a greater degree than in financial and child issues. It is my belief that the Courts will continue to defy Parliament's intention. I remember hearing a barrister, now a High Court Judge, claim at a lecture on the 1984 Act that they would ignore it. Nevertheless the continued social breakdown
and the further flagrant defiance by the Courts, of which a wider public understanding is developing, will continue to arouse further Parliamentary and media concern.

The Child Support Act.
Another factor which had contributed to social breakdown was the Child Support Act, sold to

Parliament as a means of saving the Exchequer from the cost of so-called “dead-beat dads” who were not supporting their families, in particular, the unmarried fathers.

It was later admitted by the Child Support Agency chief that the real target, however, was the middle class married father with means. In other words, once again there was a hidden agenda. The whole concept was fundamentally flawed from the beginning. The burden of the Child Support Agency exactions was so heavy that, for 95% of fathers, it would mean working at subsistence level. If it be subsistence level they might as well as give up work anyway. Indeed, if they did carry on working, they would not be left with sufficient means themselves to found a family. Thus, a further under-class would be created of impoverished men who could not afford to support a family, and of women who, in consequence, could not find a husband with whom to form a family. The obviousness of this seemed entirely to elude the Government in so far as it
was concerned about it all. In reality, despite the expenditure of nearly two billion pounds, the new Agency has recovered far less than the DSS did under the old liable relative system, and the position is worsening. Two thirds of all persons who receiving a Child Support Agency Assessment give up their employment within six months. Every form of falsification of figures disguises the non-recovery and arrears continue to rocket by hundreds of millions every year. The cost in Social Security for the men who have given up work is phenomenal By depriving men of the family, the incentive to work, the system was accelerating the move to the matriarchal society that now dominates the American inner cities and many of our industrial areas - a world of unemployed single fathers and of fatherless children running wild. Feminists boast that stone age
societies were matrilineal - that is why they remained primitive.

The Pension Issue.
One other development in recent years has been the successive Acts of Parliament, first providing for maintenance out of pension provision, and then (1996 Act) providing for the pension to be treated as an asset and divided, so that a wife who has remarried will many years later be collecting a chunk of her ex husband’s pension.

There is a false logic in the whole pension issue. Pensions are being treated as a capital asset when they are not. A pension is a contingent income dependent on many factors. Splitting it could lead to the absurd and unjust situation where; on retirement, the ex husband has a proportion of his pension and his ex wife, by now married to somebody else, has the rest of his pension as well as her own and her ‘new' husband's. Previously, the principle had been that pensions are really only relevant if maintenance liability continued beyond retirement age. Once again the so called “reformers" had pushed through Parliament a provision the implications of which were not understood by MPs. Another encouragement to easy divorce had been created.

The Solution.
I wrote in 1988, and still hold, that the logical consequence of any situation which sought justice was that there should be three classes of divorce. The first would be where the parties agree both to have a divorce and on financial and related matters. The second would be where one party that wanted a divorce for good and substantial reason, such as grave misconduct by the other party, i.e., adultery, desertion, or serious (in the pre-1970 sense) behavior, objectively assessed as justifying termination of the marriage. The third, and perhaps the great majority of cases, would be where one-party-only wants a divorce, and could not show such misconduct by the other party. In the first case, no dispute would arise. In the second, the payment of maintenance to the innocent party would be appropriate in some cases, particularly where the petitioner was a middle
aged or elderly lady. In the third case the party wanting the divorce should effectively be put to their election. Either they continue with the marriage and its obligations, or repudiate the marriage and its obligations and thereby forego the right to receive any financial benefit from the marriage which they had unjustifiably broken up. “I do not want him, but I want his money is a morally unacceptable position (even prostitutes provide services for their reward), and one which has led to Europe's highest

divorce rate. I have no doubt that if this approach were adopted there would be a radical reduction in the number of divorces. The “principle” invented by the Courts, that both parties are at fault in the termination of a marriage, results from a mixture of blind prejudice and deliberate intellectual muddle, and has led to Courts effectively determine marriage as a state in which the wife should have no obligations of any kind yet should have financial
rights far greater than those of a widow, regardless of her terminating the marriage for no good reason. The justifiability of the termination of the marriage should be the key issue. There is no reason why someone should expect to break a contract arid still benefit from it.

The Future.
it is clear from the content of the debates in Parliament that a substantial number of MPs are beginning to understand what has happened. The change of Government and the influx into Parliament of a mass of feminists and pro-feminists strongly suggest, however, that only slow progress will be made in this Parliament.

However, the first floodgate likely to collapse is the Child Support Agency. Its ever increasing cost, and decreasing recovery rate, plus the reported billion plus bill to replace its computers, will make it increasingly insupportable. It is also likely that litigation over pensions will greatly increase the volume and bitterness of litigants in the courts, and bring home the scale of the disaster to more members of the public.

Getting the Truth to MPs
The only way forward is to get home to MPs the message in this article which clearly sets out the true case of the divorce disaster: the way the Courts have overridden the intentions of Parliament and the way in which the divorce lobby have conned Parliament and the media.

Laws to Override Judicial Prejudice.
An essential aspect of any ultimate reform must be to have laws drafted in sufficient detail that the Courts, in their decisions, are unable to fly in the face of the intentions of Parliament. Courts who are prepared to order a man to maintain a wife who is living with somebody else and see nothing wrong with this (7), or to maintain an ex-wife from a short, childless marriage who cannot work because she has become pregnant by another man subsequent to a divorce (8), cannot be entrusted with wide discretions.

Financial Orders: Fundamental Changes of Principle.
There is considerable scope for the law on financial entitlement to be far more clearly defined. Inmparticular, it is quite wrong for the Courts to act as if there were an actual right to maintenance. There is no right as such, either in common law or statute, only a right to apply. This is as it should be. Maintenance should then only be awarded to mothers while with young children and to middle aged and elderly women, and then, only if they have not broken up the marriage without good reason. Equally, as a late 1980's Law Society paper pointed out (9) there is no justification for matrimonial courts, when dividing assets, to take away property inherited or received from relatives or friends or owned before the marriage. This outrageous aspect of present practice, unique to the English Courts, amounts to giving the Family Division a general
power of appointment over one’s property, and is effectively taking money from the divorced person’s relatives.

Further Legislation Called For.
I do not believe that it will be possible for those who seek reform to achieve that reform through the gradual development of cases in the Courts (which will be barred by the defiance of the lawyers). Further legislation is called for by stripping the courts of their wide discretionary powers, and that legislation will not be effective unless Members of Parliament actually under stand the real issues and the part the Courts have played in the social disintegration of our society.

References.
1.Taine, Hippolyte: The French Revolution.
2.Bamett, C.: The Decline of British Power
3 i.e., the subjective test
4 Wachtel v Wachtel, 1973
5 Rogers v Rogers, 1 973
6 Richards v Richards, 1984
7 Atkinson v Atkinson, 1987
8 Wagner v Wagner, 1978
9 Green, D. Maintenance & Capital Provision on Divorce.

Chapter 2 by: Adrian Pellman, a practicing solicitor.
Pellmans 1st Floor Suite, 1 Abbey Street, Eynsham. Oxford. 0X6 1 HR.

Independent August 26th 2006

The cheap and quick divorce laws in England and Wales are undermining the institution of marriage and need to be reformed to help prevent acrimonious break-ups, a senior Court of Appeal judge has warned.

The call for a change in the law comes from Lord Justice Wall, one of Britain's foremost family law judges, and follows a string of bitter and high-profile divorce battles. Under the antiquated divorce laws of England and Wales, couples have to blame each other if they want a quick divorce, which is usually granted within six months.

In an interview with The Independent, Lord Justice Wall called for an end to fault-based divorces and the introduction of a system that puts the needs of children and financial provision at the heart of the process. He said: " I do believe strongly in the institution of marriage as the best way to bring up children and that's one of the reasons why I would like to end the quick and easy divorces based on the fault system. I think that it actually undermines marriage."

The judge, who was a member of the Court of Appeal which heard the recent case of Miller v Miller in which the former wife of a wealthy businessman was awarded a £5m settlement after a three-year marriage said that big-money divorces which grabbed the headlines distracted attention from the misery of thousands of ordinary divorces which take place each year. " Fault has become almost entirely irrelevant to financial claims post- divorce, yet conduct remains the most important peg upon which to hang a decree," said the judge.

Last night, the family law reform group Resolution welcomed Lord Justice Wall's intervention. Jane McCulloch, the vice-chair of Resolution, said: " We are behind the principle of no-fault divorce because we would like to see an end to couples having to make allegations about each other's behaviour."

Just over 300,000 people were married in 2004, compared to 350,000 20 years ago. But most recent figures show that almost 170,000 people were divorced last year, making Britain the capital of Europe when it comes to marital separation.

In the past few months a number of very public divorce battles have shown how the law has helped to stoke the fires of acrimony in divorces involving the rich and famous. "Divorce has become very easy so that it is a box-ticking exercise, something administrative dressed up as a quasi-judicial function," said Lord Justice Wall, whose view is known to be shared by other senior members of the judiciary.

Lord Justice Wall says the courts are not adequately equipped to deal with the social and emotional consequences of divorce, which he says rarely leave anyone unscathed and can often destroy lives. "People who divorce often simply don't know what they are letting themselves in for and the family courts are not well geared-up for dealing with the bitter battles which follow, particularly over children," he said. "I am only sorry that the Government did not pursue non-fault-based divorce when the seeds had been sown for a change to the post-separation consequences of divorce."

In 2001, Labour abandoned plans to scrap fault-based divorces on the ground that parts of the scheme, which sought to encourage mediation, were thought not to be working. But Lord Justice Wall says he "did not buy" this explanation, although he accepts that the Law Commission's original proposals had been "mauled" by a series of amendments in Parliament. "I still think the Family Law Act would have helped make couples think seriously about the care of their children and proper financial provision," he said. "But divorce is very emotional and people often bring unfinished business from the broken relationship into court; their positions become polarised and, particularly in disputes over children, they sometimes think of using the courts to seek revenge.

"For many people, the fact that, for example, one spouse ran off with someone else remains of paramount importance. But it is not relevant to the issues the court has to address. I do believe in getting rid of fault because it should have nothing to do with the divorce process and shouldn't affect the result.But it will be difficult because people actually don't like not being able to blame someone in a divorce.

"They will say fault is what matters 'He's gone off with someone else, he's broken the contract. Why do I have to give her or him more money'. Mr Miller was saying the same thing 'Why should I give this woman more money? I don't think she was a very good wife'."

Earlier this year, the House of Lords ruled in favour of Mrs Miller and said that fault was irrelevant in financial divorce settlements. Now Lord Justice Wall says fault should be removed completely from the divorce process. He says that the system has become "cynical and utilitarian" and not fit for the purpose for which it is now intended.

The architects of our first divorce laws, which influence the rules today, designed the legislation to reflect society's disapproval of a breakdown in a marriage which often had a negative social consequence for women.

But Lord Justice Wall argued: "That's all changed since the war. Now a divorced woman has no social stigma, so I would welcome an initiative that got rid of fault. Under the abandoned Family Law Act, couples had to think about the consequences of their actions by ensuring that they had made provision for their children and their finances before they would be granted a divorce. Now it looks like we will have to wait another generation for reform of the divorce laws."

A judicial reformer

Nicholas Wall's judgments often attract the unwanted attention of fathers' groups whose members have posted his name on the internet and sent him hate mail. But Lord Justice Wall, 61, is in the vanguard of a reforming movement in the judiciary which has helped pave the way for open justice in the family courts. Called to the Bar in 1969 before taking silk in 1988, his forward thinking on family law has propelled him to the upper echelons of the judiciary. Three years ago he was appointed a judge in the Court of Appeal where he has sat on some of the most important divorce cases of recent years.

Celebrated splits

THE McCARTNEYS

Sir Paul McCartney filed for divorce in July in the hope of a quick settlement with his estranged wife,

Heather. Both had hoped for an amicable split, for the sake of their two-year-old daughter, Beatrice. Sir Paul's petition for the break-up of the four-year marriage is understood to have cited Lady McCartney's "unreasonable behaviour". The singer was said to have described his wife as "argumentative" and "rude to staff". Lady McCartney has hit back by saying she would be filing counterclaims in British and American courts. Sheis reported to be claiming £200m but most lawyers believe the final pay-out will be much less.

THE MILLERS

In May the House of Lords upheld a ruling that Melissa Miller should receive a £5m divorce settlement from her husband, Alan Miller, who is worth more than £17m.

Ms Miller had argued that one reason she was entitled to a larger share of her husband's assets was that he had committed adultery. But the law lords, in a ground-breaking ruling, said fault should not help determine how much a spouse receives in a divorce settlement.

Instead, Ms Miller won her case because the courts decided Mr Miller had earned large sums during the marriage and that she was entitled to think her financial position would last for life.

THE LINEKERS

The former England footballer and TV presenter Gary Lineker and his wife, Michelle, were divorced after 20 years of marriage earlier this month. Mrs Lineker was granted a decree nisi on the grounds of her husband's " unreasonable behaviour". In documents, she said the 45-year-old Lineker's behaviour caused her "stress and anxiety". They separated in April when she moved out of their £2m mansion in Berkshire. Mr Lineker, said to be worth £30m, did not defend the petition. Neither attended the hearing in the Family Division of the High Court before District Judge Caroline Reid.

The cheap and quick divorce laws in England and Wales are undermining the institution of marriage and need to be reformed **to help prevent acrimonious break-ups, a senior Court of Appeal judge has warned.** The call for a change in the law comes from Lord Justice Wall, one of Britain's foremost family law judges, and follows a string of bitter and high-profile divorce battles. Under the antiquated divorce laws of England and Wales, couples have to blame each other if they want a quick divorce, which is usually granted within six months. He said: " I do believe strongly in the institution of marriage as the best way to bring up children and that's one of the reasons why I would like to end the quick and easy divorces based on the fault system. I think that it actually undermines marriage."

The judge, who was a member of the Court of Appeal which heard the recent case of Miller v Miller… which grabbed the headlines distracted attention from the misery of thousands of ordinary divorces which take place each year. " Fault has become almost entirely irrelevant to financial claims post-divorce, yet conduct remains the most important peg upon which to hang a decree," said the judge. **[Yet this was not the wishes of parliament but the judiciary and co].**

Last night, the family law reform group Resolution welcomed Lord Justice Wall's intervention. Jane McCulloch, the vice-chair of Resolution, said: " We are behind the principle of no-fault divorce because we would like to see an end to couples having to make allegations about each other's behaviour." [**yet the solicitor's role is to supervise the statement and any statement knowing or believing matter{s} to be untrue is in contempt of Court**].

Just over 300,000 people were married in 2004, compared to 350,000 20 years ago. But most recent figures show that almost 170,000 people were divorced last year, making Britain the capital of Europe when it comes to marital separation.

In the past few months a number of very public divorce battles have shown how the law has helped to stoke the fires of acrimony in divorces involving the rich and famous. "Divorce has become very easy

so that it is a box-ticking exercise, something administrative dressed up as a quasi-judicial function," said Lord Justice Wall, whose view is known to be shared by other senior members of the judiciary. [**All of which make money from the public and/ or private purse, and permits a parent to make allegations and gain from their wrong-doing supported as LJ Wall stated by himself and other members of the judiciary against the tenets and morals of the bible and the marriage vows**].

Lord Justice Wall says the courts are not adequately equipped to deal with the social and emotional consequences of divorce, which he says rarely leave anyone unscathed and can often destroy lives. "People who divorce often simply don't know what they are letting themselves in for and the family courts are not well geared-up for dealing with the bitter battles which follow, particularly over children," he said. "I am only sorry that the Government did not pursue non-fault-based divorce when the seeds had been sown for a change to the post-separation consequences of divorce." [**What a hypocrite when it is not no fault divorce to blame for the Judges in the family division making decisions under the Children's Act 1989 which are barmy but if you look at the statements now being made; LJ Wall [and others un-named] wish to pursue not only no fault divorces but also have more cases for moneymaking by the legal and State system, screwing up more children into adulthood.**

This is further shown below where LJ Wall states that the basic morals enshrined by Christians are unimportant:

‘’In 2001, Labour abandoned plans to scrap fault-based divorces on the ground that parts of the scheme, which sought to encourage mediation, were thought not to be working. But Lord Justice Wall says he "did not buy" this explanation, although he accepts that the Law Commission's original proposals had been "mauled" by a series of amendments in Parliament. "I still think the Family Law Act would have helped make couples think seriously about the care of their children and proper financial provision," he said. "But divorce is very emotional and people often bring unfinished business from the broken relationship into court; their positions become polarised and, particularly in disputes over children, they sometimes think of using the courts to seek revenge.’’

"For many people, the fact that, for example, one spouse ran off with someone else remains of paramount importance. But it is not relevant to the issues the court has to address. I do believe in getting rid of fault because it should have nothing to do with the divorce process and shouldn't affect the result. But it will be difficult because people actually don't like not being able to blame someone in a divorce.’’

"They will say fault is what matters 'He's gone off with someone else, he's broken the contract. Why do I have to give her or him more money'. Mr Miller was saying the same thing 'Why should I give this woman more money? I don't think she was a very good wife'."

Earlier this year, the House of Lords ruled in favour of Mrs Miller and said that fault was irrelevant in financial divorce settlements. Now Lord Justice Wall says fault should be removed completely from the divorce process. He says that the system has become "cynical and utilitarian" **and not fit for the purpose for which it is now intended**. [Where is the change in Statute law for which the purpose is now intended? Parliament should determine the law not the Judiciary].

The architects of our first divorce laws, which influence the rules today, designed the legislation to reflect society's disapproval of a breakdown in a marriage which often had a negative social consequence for women. But Lord Justice Wall argued: "That's all changed since the war. **Now a divorced woman has no social stigma**, [whether she broke up the marriage by adultery, connivance or greed LJ Wall wants them absolved. Yet laws should not be sex orientated only fault of party if broken by man or woman; marriage was a contract. Judicial thinking now goes beyond the pale]….so I would welcome an initiative that got rid of fault. Under the abandoned Family Law Act, couples had to think

about the consequences of their actions by ensuring that they had made provision for their children and their finances before they would be granted a divorce. Now it looks like we will have to wait another generation for reform of the divorce laws."

A judicial reformer

Nicholas Wall's judgments often attract the unwanted attention of fathers' groups whose members have posted his name on the internet and sent him hate mail. But Lord Justice Wall, 61, **is in the vanguard of a reforming movement in the judiciary which has helped pave the way for open justice in the family courts.** Called to the Bar in 1969 before taking silk in 1988, **his forward thinking on family law has propelled him to the upper echelons of the judiciary. Three years ago he was appointed a judge in the Court of Appeal where he has sat on some of the most important divorce cases of recent years.**

Well done; slurp slurp and lots of non-thinking nonsense. LJ Wall should be removed before he and his 'friends' destroy our society.

The Open letter to Lord Justice Wall is further copied below verbatim;

OPEN LETTER RIGHT TO REPLY

Dear Clerk to LJ Wall;

This is for the personal attention of Lord Justice Wall;

I note that the formal hand down of the judgment is to take place on August 25th 06. I do not believe in attending as this will only give pretence and precedence to an otherwise flawed judicial system of protecting one's own kind as the judgment ignores the truth, the law and the facts of the case. Furthermore it is a deliberate act of judicial abuse of power.

I may as well have read nursery rhymes in Court perhaps that would impress LJ Wall. My children's welfare has not been paramount as ever and judicial analysis of the factual and legal argument was once again lacking.

I also sent the school report on my son which shows very different behaviour to that which the school and/ or CAFCASS Guardian reported to Court. It has also now come to light that not only were there two bundles before the court which were never served on me but also that there was a witness bundle.

As you expected and rightly so in last paragraph;

'' **If, in his eyes, I now join the ranks of the biased and the time-serving, the public will,**

I hope be in a position to judge the fallacy of that approach from the publication of the judgments of this court in his case.''

You do so by your own actions in this judgement. I couldn't have described it better myself.

The public cannot judge themselves without seeing the evidence and argument which was before the courts involving – HHJ Milligan, Mr. Justice Sumner, HHJ Bond, Lord Justice Wilson, Mr. Justice Coleridge and LJ Wall and therefore ask for permission for the public to see the evidence against them and the State bodies when you are going public with such self-serving diatribe and trite and I have the right to defend myself against libel, slander and falsehoods. My children's welfare has never been paramount only the continued cover-up of wrongs by not only the State bodies but also the Judiciary themselves.

In your own words; ''**Anything which shows the proper working of the family justice system is, in my view, to be welcomed**.''

I have provided three affidavits and insist that I be prosecuted for perjury.

I have provided factual and legal argument, evidence, statements and addendums and insist I be prosecuted for contempt of court as I must have been lying.

I also note the blinkered attitude to Parental Alienation Syndrome and ask you again how can I have changed the children's memories, blanked their memories, and instilled hatred in my children when I have not seen them since October 26th 1999? How can they hate their father for 'making things look so good?' Should I have abused them as the mother aided and abetted by the stepfather has? Should I have lied to them?

You are creating a dysfunctional future generation and this vile system abusing the law and human rights shall be brought back to a just administration; as we, the public, whom you serve have the right to expect.

I request permission to appeal to the House of Lords on the following grounds;

1. Do Lord Justices as well as other Judges have to obey the law?

2. Is a Judge permitted to ignore pertinent evidence and fact before them?

3. Are state bodies under a duty to obey the law and act honestly and openly within Family proceedings?

4. Is there not a right to justice within family proceedings?

5. Can Judges at whatever level ignore Human rights case law?

6. Do parties in Family Court Private law proceedings not have the right to pursue Application for damages and redress under sections 6, 7 and 8 HRA 1998 equally as in public law?

7. Can Judges make section 91(14) orders to last until a child is over 18?

8. Can judges select and ignore facts and/ or law as they see fit after it is brought to their attention?

9. Is CAFCASS a body fit for purpose given that like local Authority social services there is a history of misleading the court, perjury, perversion of the course of justice and other unlawful acts?

10. Is the UK Family Court sitting in secret able to deliver justice such as in this case when Judges deliberately mislead themselves and make astonishing assertions against litigants who speak protesting at the abuses of human rights and common law?

11. If State bodies and Judiciary can behave in such manner as I can show, why should anyone in UK obey the law?

12. Are judges permitted to abuse their power?

13. Is the children's welfare paramount in such circumstances as mentioned above?

14. Should Parental Alienation Syndrome be investigated and assessed by a specialist child and adult psychologist trained in such matters when Judges have no training in child welfare as is evidenced in this case and in case law.

Obviously now I only have one further route; recusal of Mr. Justice Coleridge and any future Appeal cannot be heard by yourself for promulgating the abuses.

I repeat below that which was said in open Court and has simply been brushed under the carpet;

"Blackstones" Constitutional law and human rights volume 8 on Judicial Functions states The principal functions of the judiciary may be described as follows:

> To provide for the orderly resolution of disputes, whether between private individuals or bodies, or involving public bodies or the exercise of public or governmental functions by public or private bodies;

To uphold the principle of legality or the rule of law;

To protect the individual against unlawful state activity;

This is an Appeal against the following orders:

Order of February 22nd 2006 made by the Courts own motion

An order of March 29th 2006 by Mr. Justice Coleridge.

It is history repeating again, the only difference is that had the Appellant been from Turkey or of former Eastern Europe Countries there would be massive public and Government outcry. Sadly the Appellant is a British, Caucasian and a male who have lesser rights than illegal asylum seekers who have the Court's sympathy.

Law bidding families are being disfranchised by biased decisions solely based on CAFCASS or similar agency officers despite the finding of Lillie & Reed v Newcastle City Council & Others [2002] EWHC 1600 (QB).

In the case of Re J (Care Proceedings: Disclosure) [2003] 2 FLR 522 FD where there was concealment and an attempt to mislead a parent and the court. Circumstances surrounding this case are no different.

Last year the Court of Appeal removed HHJ Milligan from further conduct of this case due to his gratuitous words 'Come to me in a different frame of mind and anything may be possible.'

The Court of Appeal kindly stated that there must be great progress in this case. I come before you to say there has been none to date. I did not pursue HHJ Milligan doggedly to have a better class of bias. I did it to protect my children's my rights and rights of any citizen under articles 6 and 8 of the Human Rights Act 1998.

Article 6 rights are fundamental and not to be offset or balanced against anyone else's rights under article 8. Article 17 clearly states that no one in power least the Judge has the power to act which will violate the rights of the citizen. This is further protected by article 13 of the European Convention on human rights.

Yet the manner in which I have been treated to date makes me believe that I am a victim of an politically correct institution – Jews in the WW2 were better treated and put out of their Misery but I am persistently being tortured – something even ECtHR accepts as a violation of Article 3 of the Convention e.g. Tekin v Turkey where mental torture is recognized.

The respondent mother locked my son in the bedroom from the age of 2.5 to 5, she has lied to child welfare person including health visitor, GP, counselor, schools, her solicitor, social

services AND she is rewarded by all.

Aided and abetted by the State institutions, respondent and her husband believe they are above the law, unlawfully changing my children's surnames, telling false stories to my children and alienating them, misleading the Court, and with such confidence that they arrive at Court without lawyers knowing their acts will be blessed by CAFCASS and Mr. Justice Coleridge with impunity.

If a third party abused my children I would be supported by the State in pursuing them for redress and to help my children. Just because the abuser is my ex-wife, it is covered up and even a Guardian who is supposed to represent the children independently turns blind eyes and deaf ears.

In the words of Lord Laming, - "the professionals involved were ready to accept the excuses of the primary carer and abuser" – and – "too often it seemed that too much time was spent deferring to the needs of the mother and not enough time was spent on protecting vulnerable and defenceless children". In the Climbie Inquiry the main abuser Marie Therese Kouao made sexual abuse allegations about Carl Manning to the social workers to cover up her abuse.

Para 15.10 Lord Laming in the Climbie enquiry said :- The basic requirement that children are kept safe is universal and cuts across cultural boundaries. Every child living in this country is entitled to be given the protection of the law, regardless of his or her background.

I had Appealed the involvement of HHJ Milligan on the grounds that he was a biased judge as he has invented hearing that had never taken place, denied daytime wetting in my daughter despite being given the pediatric notes, made judgment on evidence he had refused to be allowed in Court and abused his power and acted against the children's best interests even accepting a one and a half page letter to the mother's solicitors as a 'report on the mother's fitness for residence having seen her medical records' as the Court had ordered.

The truth was the mother's solicitors did not inform the psychiatrist of the Court order, the letter was based on only two meetings with her in the UK for postnatal depression not emotional instability, and borderline personality disorder and he took into account no evidence, no statements, neither carried out any psychiatric or psychological testing and simply repeated whatever the mother told him.

The facts, symptoms and issues relevant to the welfare of the children still remain uninvestigated on behalf of the children. In volume five, section L page 7A it is clearly stated that 'the outcome of investigations and assessments carried out by Social Services did not indicate the need to invoke Court proceedings that would in turn have led to a much more detailed assessment i.e. a comprehensive assessment.' That form of assessment is more in-depth and takes a wider view of all significant factors including if necessary parental Alienation or psychological abuse.' 5L7A.

Yet the Social worker Maggie Smith had previously stated in her report and under oath that she had carried out a comprehensive assessment.

Judge Milligan was a biased Judge; this can be seen by the statements he made e.g.

‘She (the mother) started by using the sock in the door idea that she got from father to restrain him from leaving his room and also taking the handle off. Again that is an idea that came from father.’ 2L8[3-7]

‘This is a man to whom I think it has never occurred that there might be another view that might be as good as or better than his and I have to consider his evidence in the light of that assessment.’ 2L(16)[3]

‘Father says that she is a manipulative liar. I do not believe this for a second. I thought that this was a truthful lady whose evidence I accept and in so far as it conflicts with the father’s evidence I have no hesitation in preferring what mother had to say to me.’2L9[9]. (I was only allowed the last ten minutes of the hearing to cross-examine the mother).

‘Social services report that there had been many complaints by the father to them that the mother was unfit, so much so that they were in the view of social services, bordering on harassment and had given rise to investigations from the period of June 94 to August 97 and these investigations had thrown up no child protection issues or concerns’. 2L12[15].

This is contrary to the facts; the Community Psychiatric nurse reported concerns to social services in June 1994; we had moved to Spain from August 1st 1994 until November 1995 and the Social Worker Neil Toyne only made a single house visit on 8th July 1996. Further, Social Services had set-up a care package at the mother’s request. All of course missing from their investigations and reports.

Social services carried out the assessment of risk 5D1 without meeting me, taking into account evidence and interviewed only the judge and CWO. I was also informed in the report that I had no right to make a complaint about the report, 5D5 [6-8]. Could not call HHJ Milligan to give evidence and despite statements under oath and in reports the GP 4H10 and 44 para 11, health Visitor 3B(3) and school 3E14(3) all deny any involvement in the assessment of risk.

When questioned regarding the locking in of my son she said 5G13G ‘’I’ve checked with the health visitor as well about the locking in the bedroom and that was dealt with a long-time ago and ‘’It was admitted between the health visitor and the mother and it doesn’t happen now.’’ This is contrary to the truth. The health visitor notes 3B4-11, senior nurse managers confirmation 3B3 and the child and family guidance notes 3B12-22 show this to be untrue.

When challenged on the health visitor’s involvement and pointing out the Health Visitor had no involvement with the my son since October 1998 and my daughter since 1996, the social worker changed her argument ‘’okay then there’s currently no concern.’’ 5G9. It beggars belief how a person who has not seen my daughter for four years and my son for one and a

half years could have any concern for them.

She stated under oath ‘’I have worked with thousands of families and I can tell you I can sense without even knowing when a mother’s emotionally unstable I don’t even have to look at them I can sense it a mile off.’’ 5G9B I have suggested to the director of social services the social worker be employed by the Police forensic dept to prevent cases such as that of Dr. Shipman.

‘’I have every confidence that what his mother tells me is true or else he wouldn’t be able to concentrate at school and he wouldn’t be putting on weight.’’ ‘’I am sure that this can be clarified through the mother. There are no problems with his eating and sleeping.’’ 5G5/6 Again such reliance on the mother’s words alone is biased and unprofessional.

Describing my son under oath she said ‘’You’ve got one child that is actually a little bit disruptive and all over the place’’. This is contrary to the Social work addendum describing him as a delightful typical 6 year old boy. He has now been referred for a full assessment. 5G14B

She said ‘’The fact that he gets a tap on the mouth for spitting or swearing I do not believe to be inappropriate’. Most six year olds spit and swear.’’ My son has never spat or sworn in my presence. 5G17B.

Describing my son’s aggression to his sister; she said ‘’He will hit Xxxxxxxx – if he doesn’t hit Xxxxxxxx I’d be very worried. He will learn not to hit Xxxxxxxx when she slugs him back one day he’ll stop.’’5G17F.

Article 6 rights are fundamental and not to be offset or balanced against anyone else’s rights under article 8.

In recent case heard by this Court Neutral Citation Number: [2006] EWCA Civ 6, it was stated;

> Para 6; Inconvenience, costs and delay do not, however, count in a case where the principle of judicial impartiality is properly invoked. This is because it is the fundamental principle of justice, both at common law and under Article 6 of the European Convention for the Protection of Human Rights. If, on an assessment of all the relevant circumstances, the conclusion is that the principle either has been, or will be, breached, the judge is automatically disqualified from hearing the case. It is not a discretionary case management decision reached by weighing various relevant factors in the balance.

Maggie Smith Social worker under oath stated that she wished all fathers were as caring as I 5G13G and that the reason my children behaved appropriately when with me was associated with the way in which I treated them. 5G4B.

LJ Wilson last November described me as highly intelligent. Mr. Justice Coleridge even stated in his judgement that I gave a lucid and articulate presentation.

The respondent mother's full diagnoses of emotional instability after a battery of psychological tests with the risk of psychological abuse of the children, her borderline personality disorder and manipulative personality have never been assessed or investigated which may well be related to the symptoms of Parental Alienation Syndrome and psychological abuse.

Similarly the symptoms in the children – my son's sleep disturbances, anxiety, referrals to child and family guidance every year since 1997 barring 2003, his counseling for low self esteem and lack of confidence in 2004 and referral to psychiatrist in 2005 or my daughter's daytime wetting and UTIs since 1997 neither have been investigated.

As a result the children have been placed at risk of harm, yet the judicial comments I personally have evidenced couldn't be invented;

HHJ Milligan 'This is a man to whom I think it has never occurred that there might be another view that might be as good as or better than his and I have to consider his evidence in the light of that assessment.'

''This is a man, in my judgement, who is pursuing his own interests which is completely different thing to standing back and taking a serious view as to what may be in the best interests of the children themselves...This is a man who is blind to the children's needs insofar as they come second to his own plans''

Mr. Justice Sumner in April 2002 said in this Court 'If he is unable to separate his own intense feelings about the injustice to him and the poor care that this mother gives, the children will not have a proper relationship with their mother if there is the risk that her standing with them will be undermined.' 2N14[13].

Mr. Justice Coleridge in his judgement of March 29th this year stated 'What the father seems quite unable to appreciate is that the ongoing proceedings are doing much more harm to the prospects of his seeing the children than if he desisted.'

I refer the Court to Raja V Austin Gray (a firm), [2002] EWHC 1607 (QB) 31st July 2002 and in particular paragraph 12 where it states; It seems to me that it is reasonable and in the public interest to expect professionals, and indeed anyone else offering particular skills for reward, to exercise them with reasonable competence. This includes the Judiciary with their ample pensions, lawyers, barristers, Guardians, Social workers, CAFCASS officers.

LORD DENNING SAID: "Whoever it be, no matter how powerful, the law should

provide a remedy for the abuse or misuse of power, else the oppressed

will get to the point when they will stand it no longer. They will find their

own remedy. There will be anarchy."

I am now at that point.

Appeal of February 22nd 2006 order

The first Application arises from an order dated 22nd February 2006 of the Courts own motion that has been unfortunately delayed as Bournemouth Registry informed the Court of Appeal that there had been a hearing behind the order.

The Appeal from the order of the Courts own motion on February 22nd 2006 was outstanding and to preserve my position I had no choice but to walk out after informing the Judge of the reasons before the hearing and at the end, contrary to the order which states that I did not give notice, Mr. Justice Coleridge rose and gave me five minutes to pack the voluminous papers.

It is unfortunate that the Appeal of the order dated February 22nd 2006 has been delayed beyond my control due to Bournemouth Courts informing the Court of Appeal that there had been a hearing that day when there had been no hearing and no Judgement.

Mr. Justice Coleridge made an order on January 31st 2006 for a half day directions hearing after he had requested the directions that I sought.

Mr. Justice Coleridge then made an order of the Courts own motion. I was unaware of any written request. I was unaware of the making of the order until it was received on February 27th 2006.

Family proceedings rules 4.14 state —(1) In this rule, "party" includes the guardian ad litem. (2) In proceedings to which this Part applies the court may, subject to paragraph (3), give, vary or revoke directions for the conduct of the proceedings, including-

the timetable for the proceedings;

the service of documents;

Directions under paragraph (2) may be given, varied or revoked -

of the court's own motion having given the parties notice of its intention to do so, and an opportunity to attend and be heard or to make written representations,

I am unaware of or had any notice to parties being given, pursuant to 4.14 (3) a, or of any written request 4.14 (3) b or 4.14 (3)c, have not had the opportunity to be heard or to make representations. Therefore the Court is in breach of the above rule in making the order of the

Court's own motion.

I did not have the right to put my case on the making of that order. I took the appropriate step and Appealed.

The rules were not complied with. The order was in breach of article 6.1 HRA 1998 and Family Proceedings rules 4.14. Either the rules and due process exist and should be followed or they do not. In this case they do.

Due process had not been complied with. I had not even had the right to disclosure of documents known or that should exist pursuant to Civil proceedings rules and for which I had supplied a detailed statement and list of documents to be disclosed dated September 9th 2005.

It has never been addressed other than Mr. Justice Coleridge simply stating on March 29th 2006 'I'm not ordering disclosure.' without giving any reasons.

The order of February 22nd without my input, knowledge or any right to give argument whether in writing or orally reduced the full complex case from a half day hearing for directions ONLY to a half day final hearing for hearing of removal of the Guardian, appointment of child and adult psychologist Dr. Lowenstein the other 16 directions sought along with the Guardian's Application for a section 91(14) order when she has not done any effective or otherwise investigation, without the right to due process and in breach of article 6.1 and 8 HRA 1998.

A half day hearing was insufficient time for the matters to be heard and these had unilaterally been condensed by the Judge sitting showing Mr. Justice Coleridge was operating with a closed mind as was shown by his giving defences on behalf of the Guardian and refusing argument from me on disclosure simply stating 'I am not going to order disclosure.'

He had also ordered the Guardian to prepare a report on contact. I have not made an Application for contact. The only contact that may have been considered was interim contact until expert had reported as to the abuse of my children and their current psychological state as well as thta of the mother who has never been investigated and the issue of alienation whether described as PAS or PA.

He also ordered any skeleton arguments to be filed the day before the hearing. This did not give any time for a litigant in person to consider whatever argument may be given.

If the Applications that I sought were refused it is obvious that I would appeal.

Disclosure had not even been addressed. The order also gave directions for the Guardian to file a report on contact.

My Application was for residence or shared residence which has not to date been addressed.

This order to file a report on contact was no doubt explained by the Guardian's Application for a section 91(14) order.

What Mr. Justice Coleridge was no doubt unaware of and yet ignored in it's totality when raised in Court is that she had not met parties, and had carried out no investigation of medical or behavioural concerns, contacted the children's school or GP to get the medical files, paediatrician, checked the social services files or had investigated my son's counselling for low self esteem and lack of confidence and his referral to psychiatrist and the reasons for it.

The order of January 31st had set the hearing for directions only.

I therefore submit that the order was unlawful, unfair and had an unfair effect on the hearing set for March 29th 2006 to which my only response could have been to put my case on the three most urgent matters for removal of the guardian, appointment of child and adult expert psychologist Dr. Lowenstein and disclosure and to preserve my position by leaving Court after the blatant bias shown to me and when the Appeal had not been heard against the order of February 22nd.

The Guardian's solicitors notes

I have also requested for release of the solicitors notes of the meetings and conversations with my children prior to the hearing.

It has been delayed beyond my control. I have the right to the notes since the Guardian's solicitor cannot usurp the role of the Guardian and she was not giving legal advice but as she clearly stated in her letters to was carrying out the role of the Guardian in understanding the wishes and feelings of the children.

There has been no assessment of Gillick competence in my children. If my children are sufficiently aware and able to understand and make decision on their own behalf then they should have been shown the papers concerning them before Court.

I tried to inform my children on December 2nd 2005 of the truth but Mr. Justice Coleridge

closed me down when I did so.

The solicitor for the Guardian has been regularly in contact with the children. These notes have not been released and has been requested after Mr. Justice Coleridge refused by way of Court order dated 21st November 2005 to have them released. I did not Appeal directly at the time as after meeting my children and witnessing Parental Alienation Syndrome as the Court had consistently been warned was signed of sick by my GP.

The Solicitor cannot undertake the role of the Guardian. It usurps the role of the Guardian who is supposed to have specialist training in questioning children. If the Guardian's solicitor can carry out the role of the Guardian CAFCASS could be scrapped.

Volume 1 H 16 letter dated 15th September Guardian's solicitor stated that my daughter no longer had utis, yet this is not in the Guardians notes and could only have been told to the Solicitor direct. My daughters UTIs were ongoing but the guardian had not sought the medical notes GP letter dated 9th September 2005 Vol 1 K 12]

Guardian's solicitor met my children to prepare statements [letter dated 20th September 2005 vol 1 H 28 para 2/3] 'I interviewed the children because it is part of my job.' Yet the Court had not been notified my children were instructing the solicitor direct.

In letter dated 13th October 2005 [vol zero, K 1] 'I have also spoken with the children directly and communicate with them regularly. A lot of what the children have said they have repeated both to the Guardian and myself but some of the things they have said to me alone. Consequently the children's wishes and feelings will not always be fully expressed in the Guardian's contemporaneous notes.

In vol 1 H 38A letter dated 9th November 2005 Solicitor stated 'My role at present is to build a relationship with the children so that I can fully understand their wishes and feelings.'

If the children were being represented by the Solicitor to be legal advice then **FPR 4.11 applies**—(1) In carrying out his duty under section 41(2), the guardian ad litem shall have regard to the principle set out in section 1(2) and the matters set out in section 1(3)(a) to (f) as if for the word "court" in that section there were substituted the words "guardian ad litem".

where it appears to the guardian ad litem that the child-

is instructing his solicitor direct, or

intends to, and is capable of, conducting the proceedings on his own behalf, he shall so inform the court and thereafter-

shall perform all of his duties set out in this rule, other than duties under paragraph (2)(a) and such other duties as the court may direct,

shall take such part in the proceedings as the court may direct, and

(iii) may, with leave of the court, have legal representation in his conduct of those duties.

The Court was not informed.

Since these communication had been made from the respondent mother's house, all parties except myself would be aware of the contents of the communications. They were not to give legal advice as the Court was not informed pursuant to FPR.

I have the right to know what has been said as she was not giving legal advice but according to her own words carrying ou the role of the Guardian.

The children's words have not been based on the facts of the case and with allegations of psychological abuse and Parental alienation syndrome would be very important in evidence and argument for appointment of child and adult psychologist Dr. Lowenstein and the behaviour of the Guardian for her removal. I therefore submit that these notes should be disclosed.

This brings me to the issue of the Guardian's notes and her failure to prepare contemporaneous notes. The Court ordered that the Contemporaneous notes be released to me after CAFCASS had tried to argue they could only be disclosed after proceedings had ended in breach of article 6.1 HRA 1998. The Guardian's solicitor stated they were contemporaneous notes yet the Guardian under stated they were only an aide memoir.

The Guardian stated that her notes were an aide memoir and not contemporaneous notes under oath to try and justify matters appearing in her report that were not in her notes. It should also be remembered that the Guardian's solicitor was also interviewing and communicating with my children.

I draws the Court's attention to the CASE OF T.P. AND K.M. v. THE UNITED KINGDOM (Application no. 28945/95)

> The local authority, which is charged with the duty of protecting the child and is a party in the court proceedings, may reasonably not be regarded by a parent as being able to approach the issue with objectivity. The question whether crucial material should be disclosed should therefore not be decided by the local authority, or the health authority responsible for the medical professional who conducted the interview.

The same principle applies to CAFCASS officers.

The Guardian's notes are not full or contemporaneous. Her excuse was that they are an aide memoir. Allegations of a serious nature have been made. The notes should be full and contemporaneous. The Guardian under oath cannot remember the date she told me she would first see the children and introduces matters not in her notes into her final report.

Notes must be contemporaneous and full. This would then comply with the duties of a registered social worker, working together under the Children's Act, and Police and Criminal evidence Act 1984.

In the Report of the Inquiry into Child Abuse in Cleveland (1987). At para. 12.34, it is to be noted that unanimity was recorded among the experts who had given evidence to the inquiry in relation to a number of matters. Those were endorsed by the inquiry team:

All interviews should be undertaken only by those with some training, experience and aptitude for talking with children.

The need to approach each interview with an open mind.

The style of the interview should be open-ended questions to support and encourage the child in free recall.

The interview should go at the pace of the child and not of the adult.

The setting for the interview must be suitable and sympathetic.

There must be careful recording of the interview and what the child says, whether or not there is a video recording.

It must be recognised that the use of facilitative techniques may create difficulties in subsequent court proceedings.

The great importance of adequate training for all those engaged in this work.

In Lillie and Reed v Newcastle City Council, a libel case heard in open Court at paragraph 405 it is stated: what I derive from the expert evidence generally (and indeed from the Cleveland Report, the Memorandum of Good Practice and the recent judicial pronouncements on the subject) may be shortly and simply stated:

> Young children are suggestible.
>
> Great care is required in analysing and assessing the weight to be given to statements from young children.
>
> It is important to take into account the context of any such statement and how it was elicited (for example, whether any pressures, rewards or leading questions were used).
>
> It is necessary to focus also on the wider circumstances of the child's life in the period leading up to any such "disclosure" that might explain or colour what the child is saying.
>
> It is vital to take into account delay between any event recounted and the statement itself.
>
> One should take into account carefully any bias or pre-conceived ideas in the mind of an interviewer.
>
> It is desirable to have in mind throughout any scope for contamination by statements from others, whether children or adults.
>
> Similarities between what one child is saying and the statements of another may be two-edged, in the sense that they might tend to corroborate one another's accuracy or merely reflect a common source.
>
> One should be wary of interpreting childish references to behaviour, or parts of the body, through the distorting gauze of adult learning or reading

And in paragraph 406 'the Review team's own expert Professor Bull told them that " the way in which a child is interviewed/ questioned will have a profound effect on the accuracy of a child's testimony, especially if the child is very young and the event(s) in question are in the distant past". The general thrust of the research carried out in recent years by Professor Bruck and her colleagues is well known. Indeed... anyone nowadays looking into allegations of child abuse would be "mad" not to take it into account. .... What the research has thrown into stark relief is quite simply that very young children do not appear to have the same clear boundary between fact and fantasy as that which most adults have learnt to draw.

and in paragraph 408 At the risk of over-simplification, it is possible to highlight some of the

propositions thrown up by the research that need to be addressed. ...It is important, first, to recognise that, although such obvious factors as leading questions, repetition, pressure, threats, rewards and negative stereotyping can fundamentally undermine the evidential worth of a child's account, it may well be that a child will tailor his or her account in response to more subtle and less easily detected influences. In particular, there is (or may be) a tendency to say what the child perceives the questioner would like to hear. Moreover, it may not be as easy to spot that a child is adopting such an approach, as it would be to identify a leading question. What had, I believe, not been generally appreciated prior to the recent research was that children do not merely parrot what has been suggested to them but will embellish or overlay a particular general theme with apparently convincing detail. This can be very difficult to detect, even for those who are experienced in dealing with children.

CAFCASS clearly are not following good practice in questioning children and arriving at results which are predictable given the lack of objective, impartial and knowledgeable procedure and research being used or is that CAFCASS's intention to use it in reverse just as the methodology of PAS investigations.

The need for notes to be contemporaneous and full are also noted in guidance given in Working together under the Children Act and supplements from the Department of Health. The Guardian was plainly wrong to not keep contemporaneous notes and as ever Mr. Justice Coleridge ignored the facts of the hearing before him.

Meeting with my children

The meeting with my children on December 2nd 2005 was very revealing. Mr. Justice Coleridge had stated that it may raise a whole raft of issues yet he ignored them despite bringing them to his attention.

It was clear that the respondent mother and stepfather have manipulated them. 1AC5A… Their hostility was illogical and at times severe manifesting many of the features of parental Alienation Syndrome.

I was accused by my daughter of manipulating them for giving them a good time, 1AC7 and 1AC what am I supposed to do? Abuse them as the mother has done and then attempt to cover it up? Would I be rewarded with residence if I had so behaved?

They hated their then six year old, now seven-year-old cousin. 1AC9A-B.

They had been given false information regarding material on websites that they claimed to have seen but could not since it did not exist. The Guardian's solicitor had threatened me with applying to Court for publishing material the Guardian admitted under oath that she had not checked f to see if it was true. 1AC15-17.

On November 10th 2005 my son had requested help for his behavioural problems yet at that meeting he stated they had ended six months previously. 1AC12E/G.

My daughter had memory blocks of violence by the mother which Mr. Justice Coleridge heard on the tape. 1AC9/10.

My daughter accused me of inventing my son being locked in the bedroom by the mother and stepfather. 1AC11B.

My daughter did not know if I had made hundreds of Applications or a couple. 1AC4E.

Yet my son stated that the stepfather admitted he knew he was doing wrong but blames my son. My son now believes that he used to beat people up. 1AC11.

My son had memories from when he was two and a half, which is psychologically impossible. 1AC11F

Both children bluntly refused Christmas presents. 1AC.

This was all false information fed by the mother and stepfather. All of this need proper input as my son has had behavioural problems with the mother from 1997. My daughter has had daytime wetting and urinary tract infections since 1997 for which there is no physical cause and daytime wetting lasting over three months is indicative of emotional abuse, never mind seven years.

My daughter sent a loving letter in April 2001 4(O)1-4.

I refer the Court to Sommerfeld v Germany whereby it states:

> 42. ‘‘it must determine whether, having regard to the particular circumstances of the case and notably the importance of the decisions to be taken, the applicant has been involved in the decision-making process, seen as a whole, to a degree sufficient to provide him with the requisite protection of his interests.
>
> 43. ..Correct and complete information on the child’s relationship with the applicant as the parent seeking access to the child is an indispensable prerequisite for establishing a child’s true wishes and thereby striking a fair

balance between the interests at stake.

44. In the Court's opinion, the German courts' failure to order a psychological report on the possibilities of establishing contacts between the child and the applicant reveals an insufficient involvement of the applicant in the decision-making process. ''

In the case of CASE OF GÖRGÜLÜ v. GERMANY (Application no. 74969/01) 26 February 2004 it is stated that ''Although the essential object of Article 8 is to protect the individual against arbitrary action by the public authorities, there may in addition be positive obligations inherent in an effective "respect" for family life. Thus, where the existence of a family tie has been established, the State must in principle act in a manner calculated to enable that tie to be developed and take measures that will enable parent and child to be reunited

In the case of ELSHOLZ v. GERMANY (Application no. 25735/94) 13 July 2000; The Court, having regard to its findings with respect to Article 8 considers that in the present case, because of the lack of psychological expert evidence and the circumstance that the Regional Court did not conduct a further hearing although, in the Court's view, the applicant's appeal raised questions of fact and law which could not adequately be resolved on the basis of the written material at the disposal of the Regional Court, the proceedings, taken as a whole, did not satisfy the requirements of a fair and public hearing within the meaning of Article 6 § 1. There has thus been a breach of this provision.

Yet my children have not been able to tell fact from fiction, truth from falsity and unless an expert independent and impartial child psychologist is brought in the children will not have their psychological integrity respected, their voice will not be heard or their medium and long term best interests or their welfare respected.

If after the meeting with my children Mr. Justice Coleridge had any real concern that there was no problem with them, he would not have made the order dated 31st January for a half day hearing for directions.

The Guardian had sought three experts as of 17th November but the person who thought an expert was not so urgent was Charles Hale QC after reading the Guardian's initial core bundle which did not include the evidential material necessary only the orders and judgments and the social worker's flawed and invented investigations.

Coleridge's judgment

Mr. Justice Coleridge said in the hearing 'I'm not reinvestigating ..subjecting court proceedings and funds.' His only concern has been with cost and the judge offered no guarantee sufficient to exclude any legitimate doubt in this respect as afforded by Article 6 of the ECHR. (De Cubber v. Belgium, Publ. Court, Series A, vol. 86, pp. 13-14, § 24).

The Applicant feared that his submissions and evidence would not be given a fair hearing, not only before the hearing but also during the hearing when subsequent behaviour further proved the matter.

It must be remembered that I did not know what was said in the Judgement as once the Applications for removal of the Guardian, appointment of child psychologist and disclosure had been refused I had no choice but to leave Court as the Appeal of the order of February 22nd 2006 was awaited to be heard.

The skeleton argument for the Court of Appeal was provided on the basis of the facts of the case and also on the facts of what had happened in Court.

The Judgement is date stamped 1st June. I did not receive it until 4th June 2006. Despite an email from Mr. Justice Coleridge's clerk that they thought the reel had left Portsmouth, I discovered that neither Mr. Justice Coleridge or his clerk had ordered the transcript at Public expense and the order was in Bournemouth County Court without any instructions on implementation.

As I suspected Mr. Justice Coleridge would ignore relevant matters, ignore the children's welfare, and ignore anything I said and misled himself and further he introduced matters he never raised in Court.

Mr. Justice Coleridge states he does not believe that I did not receive the emailed skeleton argument of Charles Hale, I do not have email at home and did not even know it was being sent and never have been asked or consented to service by e-mail as is required by FPR.

I did not receive it until half an hour or so before the hearing. He invents matters in his Judgement as he never raised this in Court. Charles Hale stated in Court that it was unfortunate that I had not received it.

If Mr. Justice Coleridge had raised this in Court I would have disabused him. Charles Hale or the other parties did not raise this. I had thought that my opponents were the other parties but turned out to be Mr. Justice Coleridge by inventing his judgement after the event.

The judge ordered a report on contact in his own motion order dated February 22nd 06 and then in his Judgement [para 7 page 4] he states that he moved onto the third Application for residence, shared residence or contact. The Guardian's report was only on contact. I was unprepared for such a change but this has only appeared in the Judgement – in Court he stated contact .

I had not applied for contact. I disabused the Judge when he stated he was going to hear my Application for contact in that, until an expert is involved even interim contact was premature.

The blame for any suffering of my children [and there is a long history of problems, resides entirely with the mother, stepfather and the State bodies and biased Judges.

Mr. Justice Coleridge knew that I was appealing the order. [Page 18E of the Judgement]. I had notified all parties and the Court not only prior to the hearing but at the beginning of the hearing. Knowing that I was appealing his order of February 22nd and he refers to Applications for appointment of child psychologist, removal of Guardian and disclosure (although he denies in his judgement and simply misleads himself [Page 3 para 6]).

It was pursued when he himself refused it after lunch with out permitting any argument or giving any reasons.

I was not given the Appeal on April 28th 2005 by the Court of Appeal because the previous section 91(14) order was time unlimited [Para 4 and 39] but because HHJ Milligan had the appearance of bias for the gratuitous words 'come to me in a different frame of mind and anything may be possible.'

I appealed on his bias and the hearing before him was for his recusal for being a biased judge. I had not Appealed the section 91(14) order since it was given by fraud and by a biased judge who gave me a homily as I was leaving Court. Mr. Justice Coleridge is merely protecting the lower Court judges he is responsible for. He cannot change the basis or the grounds upon which the previous Appeal heard on April 28th 2005 was made or given.

Mr. Justice Coleridge states para 3 that only one hearing was heard by HHJ Bond and all other by himself. This is untrue. There was only one hearing on November 21st 2005 heard by Mr. Justice Coleridge. HHJ Bond heard matters on July 1st, August 1st, and September 9th 2005.

I have not made an Application for contact – Mr. justice Coleridge ordered a report on contact in his order of February 22nd 2006 of the Courts own motion. (para 4). The Application before the Court was for residence/ shared residence after the system sorts out its own mess.

There is no analysis or mention of the argument that I put to Court.

There is no mention of the case law that I raised.

Whilst Charles Hale refers to the mother and stepfather being heard; there is no mention whatsoever of their argument. The stepfather had not even given a statement so could not give evidence in Court.

There is nothing on the issue of the children's surnames unlawfully changed by the mother.

There is nothing on the failure of the Guardian to check the websites before instructing her solicitor to threaten me, when there was nothing to see on fathers4justice and only my name on men's hour.

There is nothing on the perjury of the social worker. There is nothing on bias of HHJ Milligan or the fact that there is no estoppel and the welfare of the children has not been paramount.

He states Para 42 'The system cannot be used by litigants to fight campaigns against the statutory services for its own sake.' I would remind the Court that the Judiciary should not be protecting criminal and unlawful acts of the State bodies. Their acts have perverted the course of justice and misled the Court and been against the best interests of the children and their welfare.

There is no analysis or even comment on the decision making process of the Guardian.

I do not need leave to Appeal from Mr. Justice Coleridge. Page 19. No Jugde is going to give permission to Appeal when he himself refuses the Applications, he would be admitting that he was plainly wrong.

The Judge refers to two bundles from the Guardian I was never served with these. I was only sent an up-dated index, which appears to be for one bundle which I neither received.

I did not have the whole morning as Mr. Justice Coleridge states we did not go into Court until 11am.

Mr. Justice Coleridge did not use or consider the welfare checklist.

Mr. Justice Coleridge stated that there are no concerns of the children and deliberately ignored my son's regular referrals to child and family guidance, counselling for low self-esteem and lack of confidence, and referral to psychiatrist. My daughters maturity which is a factor for child protection where children are not permitted to be children. My daughters ongoing urinary tract infections and daytime wetting since 1997. The mother's emotional and psychological history and my daughter describing the mother's behaviour as being the same as my son.

Mr. Justice Coleridge has the temerity to state that I am abusing the family Justice system (para 42) and the system is itself in serious danger of abusing the children. He is misleading himself. No wonder he did not want to read all the documents before the Court. He then will

have realised that the children have already been abused by the mother and stepfather, under the noses of the child protection system.

The case law referred to Mabon was not used in the skeleton argument and never served on me. Mr. Justice Coleridge ignored the case law that I provided for parties and the Court. This seems common practise throughout his judgement and in his behaviour in Court.

Mr. justice Coleridge stated (Para 42) 'The father has been warned and counselled by judges over and over again, that he will not achieve his aim by endless forensic brute force.'

I do not know where this comes from. Again matters raised in the Judgement were not raised in Court or I would have disabused him. Perhaps applying an agile brain to the actions and omissions of the state Authorities and what she be good practice is uncomfortable rather being led by the nose with State controlled lawyers.

The tape he refers to in Para 7 and 26 is evidence from 1995 to October 1999, shortly before the mother stopped all contact in breach of Court order. It was evidence of what the children have been subjected to by the mother, her violence, instability, punishment of my daughter for disclosing the locking in of my son, and evidence of alienation in that the children's memories have been altered, and my daughter had memory blocks.

Sara McCartney MP heard the same tape. Her reaction was instantaneous: 'it sounds like the mother is unstable.' Mr. Justice Coleridge states that 'The mother sounds, on occasions, to be completely besides herself and at the end of her tether.' Para 26. This is untrue. She was having psychiatric and psychological therapy for problems of personal origin with the risk of psychological abuse of the children.

That tape must be played in open Court. It contains selected material to show that after the psychiatrist had signed the mother off simply for postnatal depression her behaviour was the same. As proof that I was the victim of violence at her hands. To show the extent to which the mother went including punishing my daughter for disclosing the locking in of my son to the class teacher and to the CWO Linda Middleditch. Her unlawful threats to kill me and that I would never see the children again.

It is also proof that on January 3rd 1998 my daughter did say 'Daddy I don't want her to hit you' on another occasion of violence by the mother and also that her solicitor was behind her actions forcing her to do things that she did not want to do and not acting on her instructions as he should be.

This is clear evidence that Mr. Justice Coleridge should not act as child psychologist. The mother was fully diagnosed as being emotionally unstable after a battery of psychological tests.

In Para 27 Mr. Justice Coleridge refers to ‘a very lengthy statement by the father running I think to some 59 paragraphs over six pages.’ I never submitted any skeleton argument for the hearing.

In Paragraphs 33 to 37, Mr. Justice Coleridge addresses the issue of appointment of child psychologist. Mr. Justice Coleridge does address any arguments presented. He states that ‘The father is convinced that the children’s views are planted by the mother. It is far more likely in my Judgement that the children’s views are the result of the father’s actions and behaviour.’ This is trite.

How can a person who has not been in contact with their children from October 26th 1999 be blamed for the children’s changes of memory, memory blocks, the hostility to the whole of his family including grandparents and seven year old cousin as evidenced in the meeting with the children and when the children admit they have been told all of this by the mother and stepfather. This is not just father blaming. This is arrant nonsense.

The Guardian never pointed out that there has never been a difficulty with the children talking happily about happy events in the past. The Guardian admitted that the only photo the children had was from 1995 or beforehand when I had a beard. There were no photos of me after. I had long hair and no beard from 1996.

The mother’s hostility and psychological/ emotional problems and the admittals by my daughter that the mother’s behaviour is similar to that of my son in being unable to control herself. There can be no evidence for concern for a psychological report if the Judge and Guardian act partially and ignored the evidence. Mr. Justice Coleridge made no mention in his judgements of my son’s referral to child and family guidance after 1997 every year barring 2003, his referral to a counsellor for low self esteem and lack of confidence and his referral after to a psychiatrist.

Mr. Justice Coleridge ignored the ongoing daytime wetting and related urinary tract infections in my daughter.

Mr. Justice Coleridge ignored the fact that the mother has never been investigated for the diagnosis of emotional instability and borderline personality disorder which despite Court order in 1997 has never been investigated and is most probably linked to the mother’s behaviour.

Mr. Justice Coledridge ignored the fact that it is proven in the words of the children that the mother and stepfather have told false stories to the children which is typical of alienation.

Mr. Justice Coleridge stated that a large degree of co-operation is needed for a psychological assessment. If that is the case; no child would ever go to the dentist, GP or school. Alienation would never be addressed or psychological difficulties. My son happily wanted help on November 10th 2005. He asked for help, and he wanted to go to a psychiatrist. I asked the Court if necessary to make the children wards of Court. Time and time again Mr. Justice Coleridge has bent over backwards for the mother/ Guardian and ignored the children's welfare in the process.

In Para 21 he refers to my position statement of 362 pages. This was not my position statement but an addendum to remind the Court of the law and child psychology. My Position statement was not put in the Guardian's bundle. She deliberately misled the Court and has refused to amend it.

In Paragraph 37 Mr. Justice Coleridge refers to the third and main application for contact. I have never made an Application for contact. Mr. Justice Coleridge invented this in his order dated February 22nd 2006.

Mr. Justice Coleridge stated in paragraph 41 that 'the father is on a crusade in relation to the past.' Mr. Justice Coleridge ignores the past and present, as the Guardian; the welfare issues for which there has been no investigation such as UTIs/ daytime wetting from 1997 to at least February 2005, my son's regular referrals to child and family guidance, counselling for low self esteem and lack of confidence, referral to psychiatrist and the mother's psychological and emotional history and diagnoses with the risk of psychological abuse of the children which is inconsistent parenting which seems to be ongoing and has never been investigated in the UK.

Mr. Justice Coleridge as the Guardian ignores the fact that my son had been referred to a psychiatrist in 2005 which I had stopped because it had to be a report from the Court due to PAS and/ or alienation and psychological abuse which is inconsistent parenting typified by the on-going problems that Guardian and Mr. Justice Coleridge have all ignored.

In Para 11 Mr. Justice Coleridge states that 'The father has always maintained that the children are at risk with their mother, in the face of the clearest evidence that this was not so; that evidence has been produced by a number of statutory services.' I don't believe Mr. Justice Coleridge has even bothered to look at the evidence or factual arguments in the various submissions. It has never been investigated. The only investigation by Statutory body involved social services who never met me, invented their report, and interviewed the Judge and CWO as the sole bodies contacted.

Mr. Justice Coleridge states that the 'battle over the children has waged ...over an astonishing nine years.' Para 10. He forgets that I was banned by virtue of the section 91(14) order from April 2000 until April 2005. A total of five years! There have only been 10 hearings up this Application on 27th February 1997, December 1st and 2nd 1997, 1st May 1998, 17th August 1998, 23 rd September 1998, 27th October 1999, January 13th 2000, 11th April 2000, 17th

December 2001, 22nd January 2002. I was subject to a section 91(14) order wrongly imposed by HHJ Milligan from April 2002 to April 2005. Plenty of time for the mother and stepfather to cover up their abuse and to alienate the children further as this case shows.

Mr. Justice Coleridge stated in para 6 of his Judgement 'in particular, a Dr. Lowenstein, the American exponent of the much questioned theory 'parental alienation syndrome.' He ignores the fact that Battered women's syndrome accepted in the Criminal Courts is not in DSM 1V and was refused for inclusion, that Parental Alienation Syndrome is accepted in Germany, Holland, Spain, Israel, passed two Frye tests in the USA and a Mohan test in Canada. There is also a PAS file set up for the DSM Committee meeting this year and reporting in 2010. I raised in Court that the recognition of PAS in the UK appears to be a political problem.

Having training in anger management and special needs it is obvious that PAS exists. The transcript of the children clearly shows factors of PAS from memory blocks, new memories, lies from the stepfather that my son used to beat children up, my son having memories from two and a half years old, hostility of the children's own volition, extension of the hostility to the whole of the father's family including a seven year old cousin, and extreme hostility because 'you made it look so good.'

What was I supposed to do? Abuse the children like the mother? Would I have been given residence if I had behaved in the manner that she has done?

When challenged on findings of HHJ Milligan as a biased judge Mr. Justice Coleridge stated 'She's bound to rely on his findings.' Yet there is no estoppel the children's welfare cannot be paramount if biased, and fraudulent and untrue material is relied upon.

The decision that the Court makes will also be based on wrong facts, not be in the best interests of the children, against their welfare and medium and long-term best interests which is allegedly the courts paramount consideration and simply promulgate the abuses experienced to date.

When challenged on the biased and perjured evidence of Maggie Smith Social worker Mr. Justice Coleridge said that he would not re-open social services enquiries and it would be extremely abusive of the children. He then said If the children have problems – then I'd try to discover more regarding the past... your daughter is an extremely pretty young lady. Do only ugly children need help?

He ignored my son's referrals to child and family guidance, for counselling and to a psychiatrist, his request for help on November 10th 2005 and my daughter's daytime wetting and urinary tract infections which are clear indicators of concern as well as the fact that they were lying in Court before him.

I have already mentioned that the Guardian's solicitor has already admitted in writing that Mr. Justice Coleridge did not hear from the other parties when I have the fundamental right to adversarial process as recognised in European jurisprudence.

A judge has no locus standi to raise the defence of fact for a party! He thus became the Defendant! And, he ceased to be a judge! In other words, he was, in law, a biased judge(See: Langborger v. Sweden (1990) 12 EHRR 416 at para 32). This is a blatant breach of article 6.1 HRA 1998.

Similarly it has also been admitted that I did proceed with my Application for disclosure contrary to the words in his judgement stating that I did not proceed. A further breach of article 6.1 especially when he just said I'm not ordering disclosure and refusing further argument.

A litigant is entitled to a reasoned decision in order to understand why he lost and in order to prepare an Appeal if necessary. I have been given no reasons.

Mr. Justice Coleridge was not acting independently or impartially.

The Courts are now a public Authority and cannot behave in such manner yet that is exactly what he did.

When a person claims that a public authority has acted (or proposes to act) in a way incompatible with a Convention right, and where that person is, or may be, a victim of such action, he may rely on Convention rights in existing court proceedings (s.7(1)(b)). I invoke those rights now.

It is a well-established principle of national law and Authority, in Lazarus Estates ltd v Beasley (1956) 1 All ER 341 Lord Denning: 'no judgement of a court, no order of a minister can be allowed to stand if it has been obtained by fraud – fraud unravels everything.' The Authorities, the Court have all acted fraudulently and unlawfully.

The hearing was a sham. In the case of Nideröst-Huber v. Switzerland ECtHRit is stated ;

24. **...**the concept of fair trial also implies in principle the right for the parties to a trial to have knowledge of and comment on all evidence adduced or observations filed (see the Lobo Machado v. Portugal and Vermeulen v. Belgium judgments of 20 February 1996, Reports 1996-I, p. 206, para. 31, and p. 234, para. 33, respectively).

I never received copies of the two bundles from the Guardian that are referred to in the

judgement of Mr. Justice Coleridge.

I never received the skeleton argument of Charles Hale until half an hour before the hearing.

I never received the decision making material namely letters to and from the Guardian to the children's schools, and the GP requested well in advance of the hearing until I was leaving the hearing. Mr. Justice Coleridge refused to order that it be disclosed leaving it to the discretion of the Guardian.

In *O & Others 2005 EWCA 1759* LJ Wall stated in para 87 that 'In the same way that we have been critical of Judge Milligan and Judge Norrie for the manner in which they respectively treated Mr. O and Mr. Watson, we are equally critical of those members of the legal profession who do not obey the rules when dealing with litigants-in-person, and who do not extend to them the normal courtesies they extend to professional opponents.

Under Civil Jurisdiction and Judgments Act 1982, Article 27

A judgment shall not be recognised (2) where it was given in default of appearance, if the defendant was not duly served with the document which instituted the proceedings or with an equivalent document in sufficient time to enable him to argue for his defence.

Guardian's decision making process

In Paragraph 29/30 he refers to written submissions from me. I never made any written submission for removal of the Guardian. He states there is not one scintilla of evidence to support or justify the Father's application. I don't think Mr. Justice Coleridge and I were at the same hearing. Nothing I said in Court, proved or argued is mentioned, although I gave a lucid and articulate presentation.

-

Section 91(14) orders are made at the conclusion and no evidence has been submitted to Court by the Guardian to the children suffering or to the alleged witnesses to this referred to in the Application.

She was given legal aid for a section 91(14) order on February 2nd 2006. She then applied for section 91(14) on 13th February prior to having received replies from the schools, GP or done any investigation etc etc.

When requesting disclosure of the Guardian's decision making process, Mr. Justice Coleridge stated – she can if she wants. Ignoring the role of a judge and the rights of the Applicant under article 6 and 8 HRA 1998.

When asked under what section of the Children's Act the written report is written he stated it was prepared by Guardian pursuant to appointment and as such to provide to the Court. I have the right to know if it is a section 7 or 37 report.

When asked for Mr. L to make statement on November 21st this was refused on the grounds that he would say the same as the mother, when revisiting the matter on March 29th 2006 he said 'If I think appropriate' Yet he had already reduced the hearing and I have the right to have the stepfather who is a party to the case, to justify his abuse of my children and then covering up after the event aiding the alienation.

Mr. Justice Coleridge ignored the signs and symptoms, the fact that my children have been taught to lie in Court and the evidence of Parental Alienation Syndrome and psychological abuse.

When questioning on how the Guardian knows that they are the children's real wishes and feelings she said ' I don't know – its part of my assessment skills.' I stated 'it doesn't sound very factual.' ' She replied that it is not a science.

When pointing out that the Guardian had already admitted she had not investigated alienation. Mr. Justice Coleridge stated 'She has given a view.' How can anyone give a view on a matter when they have not investigated. It beggars belief and would be ridiculed in an open Court.

Mr. Justice Coleridge said 'We have ample powers and the question is do we exercise them. I am not prepared even if thought helpful to allow a psychologist.'

On November 21st 2005 Mr. Justice Coleridge stated that he would be happy to hear from Dr. Lowenstein after meeting me with the children. Then he denies this right. His word is not to be believed. Clearly his word is to be taken with a pinch of salt.

When mentioning the relevance of daytime wetting Mr. Justice Coleridge stated that anything could be the cause and later that there is a whole range of possible explanations. Yet this is not true. Daytime wetting lasting over three months is indicative of emotional abuse. Is he really a Family Court High Court judge?

In this case it began in 1997 and is probably ongoing since the last reported UTI was on February 17th 2005.

When questioned on whether the words of the children were true the Guardian stated she the believed the children believed the words to be true and that it came from their hearts. Mr. Justice Coleridge then stated 'The question is whether it came from their hearts.'

In open Court the Public would sit with open mouths aghast. If the children are stating things that are untrue this needs to be investigated and is highly indicative of PAS.

The Guardian had not carried out any investigation and reported partially and even denied me the decision making process which Mr. Justice Coleridge refused to order her to release.

She had prejudged the situation applying for a section 91(14) order without further investigation than the children's words at the mother's house and one meeting on December 2nd 2005 after over five years of no contact for no good or proper reason by biased Judges and corrupt court reporters from CAFCASS and Local Authority social services.

The guardian had not investigated any further after a meeting with my children on December 2nd 2005 with the children except had a meal at a restaurant with the children. She then Applied for a section 91(14) order being given legal aid on February 2nd 2006 without any other investigation. She has blindly relied on the children's words and nothing else. She has relied on the children's untruths even when evidence exists that their words are untrue.

Mr. Justice Coleridge in defending her stated that she was obliged to follow the findings of HHJ Miligan and Mr. Justice Sumner, in which case the children's welfare has not been paramount. I have abundant evidence of bias and abuse of power by oth Mr. Justice Sumner and HHJ Milligan.

I refer the Court Re B Children's Act Proceedings issue estoppel [1997] 1 FLR 285 beginning Letter D page 295. Hale J:

> It seems to me that the weight of Court of Appeal Authority is against the existence of any strict rule of issue estoppel, which is binding upon any of the parties in Children's cases. At the same time the Court undoubtedly has discretion as to how the enquiry before it is to be conducted. This means that it may on occasions decline to allow a full hearing of the evidence on certain matters, even if the strict rules of issue estoppel would not cover them.
>
> There are no doubt many factors to be borne in mind, among them the following:
>
> The Court will wish to balance the underlying considerations of public policy:
>
> that there is a public interest in an end to litigation. The resources of the courts and everyone involved in these proceedings are already severely stretched, and

should not be employed in deciding the same matter twice, unless there is good reason to do so.

That any delay in determining the outcome of the case is likely to be prejudicial to the welfare of the individual child: but

that the welfare of any child is unlikely to be served by relying upon determination of fact, which turn out to be erroneous; and

The court's discretion, like the rules of issue estoppel...must be applied, as to work justice and not injustice.

The priority is the children's welfare. The guardian's role is to represent them independently of both other parties and the stepfather yet did not do so.

Eric Pickles MP said : 'There is almost a process of Chinese whispers whereby that noble concept becomes bastardised onto an unwillingness to disclose, to justify, to listen to arguments, or even to see a need to explain decisions.'

He also stated that 'the Guardian is there to look after the interests of the children and to be impartial in the process.' Obviously he has not met Mr. Justice Coleridge who in his judgement stated that she is not there to be independent of parties.

Eric Pickles also said ' Although some Guardians may exist who are prepared to stand up to social services departments and act as bastions of freedom, they are very hard to find. Generally speaking Guardian's act as cheerleaders for social services departments. They are entirely compliant and seem incapable of doing much more than being a cheer leading section.'

The same applies to Alison Evans. She has aided and abetted the cover up for which reason I have sought her removal.

Guardian Ad-litem has not investigated the credibility of the mother and husband Mr. L.

Mr. L has not even provided a statement or response to the C1 and C1A served on both the mother and stepfather.

The Guardian admitted in her report paragraph 4.1 'I confirm that the many other issues raised by Mr O, relating mainly to past proceedings, domestic abuse and Mrs L' psychiatric

history have not been addressed nor indeed investigated.' This obviously includes psychological and emotional issues and under oath she admitted that she had not investigated alienation. The whole matter has not been investigated at all.

The Guardian as with Mr. Justice Coleridge rely on fraudulent reports, judgements and untruths without examination even on paper of the issues. Therefore the welfare of the children has not been paramount as required by section 1 of the Children's Act 1989.

A Guardian Ad-litem/ Family Court advisor trained on convergence does not have the in-depth training and experience of a real Guardian Ad-litem and her actions to date have breached articles 6 and 8 HRA 1998.

The Guardian had not carried out sufficient investigation to protect the rights of the children, as is her role.

She solely relied on the children's words when she had not investigated the factual or truthful basis.

I submit that the Guardian has not been acting independently on behalf of the children but closed her eyes and ears acting on behalf of the mother.

She quotes the mother in her report for contact, when I have not even applied for contact and states that she has not had a meeting with any of the parties.

I have refused to meet her with my children and the solicitor to have the children tell me they don't want to see me and I have refused to discuss matters with the guardian's solicitor prior to Court hearings.

I would have welcomed being offered a meeting which the protection of a recorded meeting to discuss the facts of the case as they truly are and not as the Guardian wishes to present them. I would have welcomed an opportunity to show her the relevant facts and evidence before the Court, yet was given no such opportunity.

My complaint to the parliamentary Ombudsman covered this. Yet it was yet again refused on the grounds that the matter was up to the Judge sitting.

The Guardian's decision making process was fatally flawed. Her role is to represent the children independently of both parties.

She did not meet (allegedly) with the mother or father, yet she quotes the mother.

Her notes were not contemporaneous.

She did not investigate the facts of the case or the evidence before the Court on behalf of the children.

She relied on the biased Judgements of HHJ Milligan, Mr. Justice Sumner and the corrupt social worker Maggie Smith. yet she should have done a forensic examination to make sure that the behaviour of the Social Services dept and the Court served the children's welfare and their best interests.

She did not investigate why my son was having counselling.

She did not investigate my son's regular referrals to child and family guidance.

She did not investigate my son's referral to a psychiatrist.

She did not investigate the children's medical files.

She did not investigate social services file.

she did not speak to, meet or check up on potential witnesses.

She did not meet family members.

she did not investigate the children's words at the meeting with them when there is ample evidence of alienation. It is trite to say under oath that I believe the children believe that they are telling the truth.

She did not investigate the children's welfare other then repeat the words of alienated children.

She did not take any advice on the medical conditions such as urinary tract infections or daytime wetting.

She did not analyse the previous decision making process.

She did not investigate the missing Court file.

She did not investigate the mother's emotional and psychological history.

She ambushed the father with Dr. bentovim.

She ambushed the father with Charles hale skeleton argument.

She did not correct the fact that I never said that's the thing I am fighting for Justice.

She applied for a section 91(14) order before investigating the school and GP.

She asked limited questions of the school and GP after she had applied for a section 91(14) Application not beforehand.

Her notes were awful with seemed, presented, appeared, and I felt.

There was no separation of fact from fiction.

She has misled the Court with her chronology and statement of issues.

She has deliberately provided a misleading core bundle which has never been served on me, yet according to the Judgement there were two budnels before the Court!

She has not (allegedly) had meeting with the mother, the stepfather has not provided a statement yet reports glowingly on their care of the children when this has not been investigated.

She has not assessed psychological abuse or parental alienation (syndrome).

she has with-held from Court the fact that the mother is in contempt of Court and in breach of section 13 of the Children's Act 1989.

She did not check Gillick competence before sending the children to the solicitor after the initial meeting or since.

She admits that she never investigated any of my concerns or alienation. So what use was her report except to promulgate the wrong-doing.

The Guardian's role is to represent the children. To look into matters on their behalf and to investigate forensically.

She blindly accepts the Social services and CAFCASS previous involvement as being adequate to protect the children yet ignores the evidence of perjury, perversion of the course of justice, misfeasance and/ or malfeasance and bias.

She ignores alienation and evidence of concern for the children and the wrongdoing of the Family Justice System on their behalf.

Her report has been praised by Mr. Justice Coleridge yet he in his Judgement ignored the facts of the case as argued in Court, acted on behalf of the Guardian in giving defences and promulgated the situation.

Both children now hate the whole of the father's family on spurious grounds and have symptoms fully reminiscent of Parental Alienation Syndrome. Congratulations to CAFCASS.

It was by the simple act of writing a letter that I discovered why my son had been having counselling, that the missing Court file existed, that emails from me to FNF were in the Court file which should not have been and that a whole host of other matters were not as the Court had been informed in reports subject to the perjury Act of 1911.

The Guardian has stated on the phone to me that there is no evidence of alienation, and that she believed what the children were saying was true. This is appalling.

I did not know that the Guardian was meeting with the children on 29th November or before the meeting with their father on December 2nd 2005. The mother would certainly be aware. Yet another ruse to cook up some evidence against the father.

It is noted [1 H 50] children were anxious that they would be safe and that their father would not take them away. When they spoke of their father having a beard – this is another strange comment given that I removed the beard in 1996 and the main point they would have properly remembered was that until they last saw me I had long hair in a ponytail and was clean shaven. **Guardian admitted she did not see any such photos.**

The Guardian [1 H 50] told the children that the most important thing was for them to be totally honest with the judge and father. The Guardian noted [1 H 51 that she felt the children were speaking the truth.

Yet what transpired was solid prima facie evidence of Alienation. She has not even checked on the evidence before her. The Guardian clearly is here for the mother .

I preserved my position on why I agreed to that meeting in the fax 1 D 37]. When I saw the hostility in the children, I then asked questions to elicit responses in support of alienation, a matter raised previously in the Court but was ignored by HHJ Milligan refusing a family therapist, psychological expert input etc.

Nowhere before the Court was it ever argued that I manipulated the children by giving them a good time. If there is any objectivity in this Court it is obvious that the children are not thinking straight themselves. How can being a caring, sensitive parent and being child friendly possibly equate with manipulating them? Should I have abused them as the mother and stepfather have?

That would make an excellent media headline; 'father denied contact for six years with his children for giving them a good time.' Father fails to abuse his children. CAFCASS have run out of ideas so please fathers feel free to abuse your kids.

It is clear that in a complex case such as this with intermingled allegations of psychological abuse and Parental Alienation Syndrome, the symptoms in the children, their untrue words, the hatred to the whole of my family and the ongoing behavioural problems in my son that an expert child and adult psychologist trained in such matters would assist the Court.

Should Judges interview children?

Judges are not trained in child or adult psychology or analysing children's words. It is not their remit. CAFCASS have little training in this, as is evidenced in the manner in which the Guardian has approached this case. I have just received a letter from CAFCASS. I was hoping to have answers to the questions in advance of today's hearing but they are treating it as a request under the freedom of information act. I very much doubt that CAFCASS have policies or procedure on questioning children as is evidenced by this case. [Copy handed over to LJ Wall].

In F-K (A Child) 24 February 2005 **Neutral Citation Number: [2005] EWCA Civ 155**

> 135.…Mr. Horrocks accepted that a judge is entitled to depart from the evidence of an expert. However, he must give reasons for doing so. Furthermore, Mr. Horrocks acknowledged, a judge may decline to follow the combined evidence of a number of experts, so long as there is other available evidence upon which the judge may properly rely. Mr. Horrocks cited the decision of this court in ***Re B (Care: Expert Witness)*** [1996] 1 FLR 667, and the judgment of Ward LJ at p.670 C-E:

"The court invariably needs and invariably depends upon the help it receives from experts in this field. **The court has no expertise of its own, other than legal expertise**… By their special allocation to this work, they [i.e. Judges] acquire a body of knowledge which, strictly speaking, cannot be substituted for the evidence received, but which can be deployed to spot

any weakness in the expert evidence. That is the judicial task. The expert advises, but the judge decides. The judge decides on the evidence. If there is nothing before the court, no facts or no circumstances shown to the court which throw doubt on the expert evidence, then, if that is all with which the court is left, the court must accept it. There is, however, no rule that the judge suspends judicial belief simply because the evidence is given by an expert."

Mr. Horrocks also pointed out that in the same case Butler Sloss L.J.(as she then was)had

said at p.674 F:

"Family judges deal with increasingly difficult child cases and are much assisted in their decision-making process by professionals from other disciplines: medical, wider mental health and social work among others. The courts pay particular attention to the valuable contribution from paediatricians and child psychiatrists as well as others, but it is important to remember that the decision is that of the judge and not of the professional expert. Judges are well accustomed to assessing the conflicting evidence of experts. As Ward, LJ said, Judges are not expected to suspend judicial belief simply because the evidence is given by an expert. An expert is not in any special position and there is no presumption of belief in a doctor however distinguished he or she may be. It is, however, necessary for a Judge to give reasons for disagreeing with experts' conclusions or recommendations."

Judge Allweis giving evidence to the Select Committee enquiry on CAFCASS on 8th April 2003, stated in paragraph 76; ‘How the voice of the child is heard is actually quite a complex matter. There are some who say that the child should come and speak to the Judge; I have my skills – such as they may be- but I am not necessarily skilled as interviewing children to ascertain their wishes and feelings.’

Mr. Justice Coleridge is not a child or adult psychologist. His decision to see the children with me was protected by his words on November 21st 2005 when he said that he would hear from Dr. Lowenstein after the meeting with the children. It appears that the words of even a High Court Judge are worthless.

The training and education on Parental Alienation or I should say PAS is lacking in UK State Authorities.

Sir Mark Potter stated on 2nd May 2006 whilst giving evidence to the Select Committee that the work of CAFCASS is absolutely essential to the successful operation of the Family Justice System.

During that meeting Keith Vaz stated to Sir Mark Potter ‘you are finding excuses for Politicians which you are not supposed to do as a judge.’

In this case Mr. Justice Coleridge found excuses on behalf of the Guardian from CAFCASS, which he neither should he do so.

Even though I took Mr. Justice Coleridge through an analysis of the children's words showing where their memories had changed, they had memory blanks, the hostility had extended to all the fathers family, where the memories had been altered and the admittals of the lies by the mother and stepfather, he decided to ignore the issues in his judgement and in Court paid lip service.

All that the Court and CAFCASS have done is to repeat the children's words without one iota of thought behind it. My daughter was punished severely in the past by the mother for disclosing the abuse of her brother, yet no assessment or investigation has been carried out into the matter.

The interviews with the children took place at the mother's house. This was true for the meetings on August 25th 05, November 10th, November 29th, 21st December 05 [then going to restaurant], and 15th February 06. Both the meetings with the Solicitor which should not have taken place were also at the mother's house.

In Re N Ward L.J. expressed agreement with a passage in the judgment of Wall J in Re and B (Minors) (No.1) (Investigation of Alleged Abuse) [1995] 3 F.C.R. 389,409:

> "From a forensic view point para. 12.35 of the [Report of the Inquiry into Child Abuse in Cleveland (1987) (Cm 412) the unsuitability of having a parent present at an interview] remains a correct statement of the proper practice, particularly in a case where the only evidence of abuse up to the date of the first interview was what the mother has said the child has said to her. Quite apart from any pressure which the mother's presence may place on the child, the golden rule is that each interview is to be approached with an open mind: such a rule is in my view immediately broken if the mother is present at the interview".

Attention is also drawn to the words of Morritt L.J. In Re F.S. (Minors) (Care Proceedings) [1996] 1 F.C.R. 667, 676-677:

> "The use of child psychiatrists is obviously of the greatest assistance to the court in many cases. In some instances that will extend to pointing out features of the child's evidence which tend either to support or undermine its credibility. But it is usurping the function of the judge to give an opinion directly on whether the man did that of which he is accused. In this case three of the experts stated their respective beliefs that the father had sexually abused N in the way of which she complained, not because of the results of medical examination, but because they believed what she said in the video interview. Not only was such evidence inadmissible, it was capable of being highly prejudicial. Though judges are often required to put out of their mind inadmissible and prejudicial matters they are entitled to expect the parties and their representatives to use care to see that they are not faced with it in the first place. Moreover, not only may the wrongful

> admission of such evidence cause problems for the judge, it is also susceptible to giving the accused person the impression that he is being tried by the experts and not the judge".

All the Guardian could do in Court was to say 'I believe that the children believe what they are saying is true.' and then this was followed by Mr. Justice Coleridge stating 'All that matters is does it come from their hearts.' This is trite.

The Judicial studies board advises against Judges hearing children. The role of interviewing children is that of the Guardian not the Solicitor or the Court. It is not to be missed that the Guardian and Solicitor have refused to show the children any of the paper before the Court or to correct their impressions.

It is noted in ***Elholz v Germany*** (13th July 2000) that

> "*a fair balance must be struck between the interests of the child and those of the parent (see e.g.* ***Olsson v Sweden No 2*** *(27 November 1992) and that in doing so particular importance must be attached to the best interests of the child which, depending on their nature and seriousness, may override those of the parent. In particular the parent cannot be entitled under Article 8 of the Convention to have such measures taken as would harm the child's health and development (see* ***Johansen v Norway*** *para. 78)".* This principle must apply *a fortiori* to Article 6.

In ***T. v U.K.*** (16 December 1999) and ***V. v U.K***. (16 December 1999), cases concerning murder charges against very young children, the Court noted that Article 6 , read as a whole guarantees the right of an accused to participate effectively in the trial. The Court noted

> "*The formality and ritual of the Crown Court must at times have seemed incomprehensible and intimidating for a child of eleven … the applicant states that he was unable to follow the trial or take decisions in his own best interests."* (para. 86, ***T. v U.K***.)

> Importantly the Court added "… *the Court does not consider that it was sufficient for the purpose of Article 6(1) that the applicant was represented by skilled and experienced lawyers*." (para.88, ***T. v U.K***.).

In Niemietz v Germany10 the Strasbourg Court indicated that private life includes at least two elements. The first is the notion of "an "inner circle" in which the individual may live his own personal life as he chooses"; the second is "the right to establish and develop relationships with other human beings". The Court developed this in Botta v Italy- What the Court said was

this: “Private life, in the court’s view, includes a person’s physical and psychological integrity; the guarantee afforded by Article 8 of the Convention is primarily intended to ensure the development, without outside interference, of the personality of each individual in his relations with other human beings.” This has been elaborated by the Court in further cases12 where it was pointed out that: 10 (1993) 16 EHRR 97 at para [29]. 11 (1998) 26 EHRR 241 at para [32]. 12 Bensaid v United Kingdom (2001) 33 EHRR 205 at para [47], Pretty v United Kingdom (2002) 35 EHRR 1, [2002] 2 FLR 45, at para [61].

‘‘Article 8 … protects a right to personal development, and the right to establish and develop relationships with other human beings and the outside world.” In Pretty v United Kingdom the Court stressed that: “The very essence of the Convention is respect for human dignity and human freedom.” It follows from this, that included in the private life respect for which is guaranteed by Article 8, and embraced in the “physical and psychological integrity” protected by Article 8, is the right to participate in the life of the community and to have access to an appropriate range of social, recreational and cultural activities. The Strasbourg jurisprudence recognises that the ability to lead one’s own personal life as one chooses, the ability to develop one’s personality, indeed one’s very psychological and moral integrity, are dependant upon being able to interact and develop relationships with other human beings and with the world at large.

While the essential object of Article 8 is to protect the individual against arbitrary interference by the public authorities, it does not merely compel the State to abstain from such interference: in addition to this negative undertaking, there may be positive obligations inherent in effective respect for private or family life.

Central to one’s psychological and moral integrity, to one’s feelings of self–worth, is the knowledge of one’s childhood, development and history. So amongst the rights protected by Article 8, is the right, as a human being, to share with others – and, if one so chooses, with the world at large – one’s own story, the story of one’s childhood, development and history.”

In Gaskin v UK 1989 (Series A no 159 p16 §39) the Court (ECtHR) found that it was the State’s positive obligation in seeing that the child’s right to establish details of his/her family heritage is not denied.

The importance of maintaining contacts between parents and children who had been taken into public care was underlined in *Scozzari and Giunta v Italy* 13 July 2000 (applications no 39221/98 and 41963/98). The Court said that a measure as radical as the total severance of contact can be justified only in exceptional circumstances (*B v UK* series A no 121 para 77).

An often invoked argument from Governments is that the parents do not co-operate with the authorities. This does not however dispense the authorities from making serious efforts to facilitate the contact between the child and the parent.

Yet in this case my children have been abused by the mother and stepfather, put in their sole care, the father denied all contact and as a result the children have not been able to tell fact from fiction, truth from falsity and unless an expert independent and impartial child psychologist is brought in the children will not have their psychological integrity respected, their voice heard or their medium and long term best interests respected.

All that the Court and the Guardian are doing is using PAS in reverse to justify mother custody with a known violent and abusive mother and the Court justifying the lies by my children on absurdities.

PAS or Parental alienation of the form in this case is a very severe form of emotional abuse. It will have a long term impact on the children's development psychologically and affect how they behave themselves as parents and in relationships.

The alienation was so severe I could not return to the classroom and gave up teaching. The shock to see my own children lying in the Jury room was beyond me. What sort of person could do that to their children and what system ignores the evidence before them?

I had raised the Alienation and psychological abuse in 2000 and also in my statement for September 23rd 1998. The only response from the State after the event is to admit In volume five, section L page 7A it is clearly stated that 'the outcome of investigations and assessments carried out by Social Services did not indicate the need to invoke Court proceedings that would in turn have led to a much more detailed assessment i.e. a comprehensive assessment.' That form of assessment is more in-depth and takes a wider view of all significant factors including if necessary parental Alienation or psychological abuse.'

Yet the Social worker Maggie Smith stated in her report and under oath that she had carried out a comprehensive assessment.

The Guardian admitted under oath that she had not investigated Alienation. In her report in Paragraph 4.1 she stated

> 'As directed by the Court, the issues including the removal of the Children's Guardian; the appointment of a psychologist; contact and an application for a bar on Mr O making further applications, without leave of the Court, are addressed within this report.
>
> I confirm that the many other issues raised by Mr O, relating mainly to past proceedings, domestic abuse and Mrs L' psychiatric history have not been addressed nor indeed investigated.

Parental alienation Syndrome exists even if this Court denies it exists. It is not sufficient for the Court to act Ostrich like and to hide behind the fact as children's welfare is being destroyed. Already in the UK we have the greatest amount of teenage pregnancies which is directly related to fatherlessness, the worst ever mental health of teenagers, increasing teenage delinquency, rape, drug and alcohol abuse, self harming and poor behaviour in the countries schools. Is someone trying to destroy the fabric of a civilised society?

I was informed that Charles Hale had drawn up the order. The order is erroneous.

My McKenzie friend's name was Mr. Bannon not Banner.

The Court and all parties were fully aware that I had Appeal number B4/2006/0522 outstanding.

I did not leave before final submissions. I had put three Applications to Court for removal of the Guardian, appointment of child psychologist and disclosure**.** All three Applications were refused without reasons and without hearing from any other party.

I do not need permission from Mr. Justice Coleridge to Appeal and all knew that I was going to Appeal the refusals.

There was no Application before the Court of to disclose transcript and order to Hampshire Social Services dept, the children's school, my son's ex-school and the GP.

The section 91(14) order is to last to October 8th 2009 which is my son's 16th birthday but my daughter would be 18 on 25th August and the Court has no jurisdiction once she is 18, Thank God.

I requested a stay on the order well in advance of this hearing, yet the judgement and order have been sent to the children's schools, GP and Hampshire corrupt social services department already, I require an order that he bodies destroy copies pending hearing of the Appeal.

The GP now refuses to respond further, my children's school refuses via the Chair of governors to address the unlawful change of my children's surname and by virtue of the order, I am stopped from suing the bodies for their unlawful and criminal acts, denied any information on my children and treated worse than a child abuser, which was the mother and not me.

I cannot Appeal the section 91(14) order as the whole point of the two Appeals is that I have not been

permitted a fair hearing in either the decision making process or the manner in which Mr. Justice Coleridge or the Guardian and her entourage have addressed matters and justice to the children requires psychological input for the benefit of the children's medium and long-term best interests.

A section 91(14) order requires cogent evidence. The Guardian provided none.

The Guardian has acted to continue the cover up and her sole investigation was to repeat whatever the children said at the mother's house.

The Guardian herself has not carried out investigation on behalf of the children.

She quite happily admitted she has not investigated my concerns in her report, the abuse of the children through alienation or psychological abuse, the failures of the State bodies on behalf of the children or even the alienation prevalent from the meeting on December 2nd 2005.

She repeats the words of alienated children verbatim regardless of whether they are true or not simply stating 'I believe that the children believe their words are true' parroted by Mr. Justice Coleridge who said 'it only matters if it comes from the children's hearts.'

I CANNOT ARGUE ON the SECTION 91(14) ORDER GIVEN WITHOUT the Appeal being heard for the Guardian's removal, appointment of psychological expert and disclosure and I would remind the Court that contrary to the words in the Judgement I did pursue my Application for disclosure but it was refused without reason by Mr. Justice Coleridge, not as he states that I did not pursue it and no parties were heard contrary to the right to adversarial proceedings. Mr. Justice Coleridge's judgement does not resemble the hearing I was present at and he has shown clear bias.

In Re S [2004] 1 FLR 1279 at paragraph 46 it is stated 'Whatever the difficulties, however scant the prospects of success, the Courts must not relent in pursuit of what had been a natural relationship between father and daughter, absent compelling evidence that the welfare of the child requires respite.''

Yet none of the welfare concerns for the children: emotional and psychological have been investigated to-date and the Guardian had done no investigation or had even received the responses from the schools or GP. My son's behaviour was allegedly improving at school, my son stated that he was getting better although on November 10th 2005 he requested help for his behavioural problems which the Guardian never investigated namely and unsurprisingly lack of confidence and low self esteem.

Whilst the GP had no concerns but he provided a partial and incomplete report and the Guardian did not inform him of the facts of the case. Neither had the Guardian carried out any investigation in order to further cover up. Despite being told that there was no other contact

with the GP I have just received a letter refusing copy of the communications between GP and Guardian on legal advice.

I refer the Court to Re M 21st June 2005 another Appeal against the learned Judge HHJ Milligan:

> para 26 True it is that these are children whose views ordinarily carry great weight but we have to bear in mind not only their age but also their understanding. Their understanding in this case is corrupted by the malignancy of the views, with which they been force fed over many years of their life.
>
> Para 41 In my view the judge was plainly wrong in making the order that he did. He should have transferred the seemingly intractable dispute to the High Court and directed a psychiatric or psychological assessment from an expert experienced in dealing with families with children with problems of this kind. Where as, in this case the Court has the picture that a parent is seeking, without good reason, to eliminate the other parent from the child, or children's lives, the Court should not stand by and take no positive action. Justice to the children and the deprived parent, in this case the mother, require the Court to leave no stone unturned that might resolve the situation and prevent long term harm to the children.

In Re C (a child) 16th February 2005;

> paragraph 27: In my view where there is an Application of this kind by a devoted and deserving parent, of whose conduct no reasonable criticism can be made, and the child concerned evinces dislike or distrust of the parent for no explicable reason other than it is a by product of a psychiatric disorder present in the child, it must, in principle, be wrong for the judge to proceed to make an order, the effect of which is to cut off contact with that parent, without first obtaining the guidance of an expert in the effects of that disorder with a view to obtaining advice on the best way of persuading the child to resume a relationship with that parent.
>
> Paragraph 37 I would set aside the order of the Judge dismissing the Application and make the following directions for its disposal, namely that being staisfied pursuant to 5.2 of the President's direction there is a special reason for the appointment of a Guardian other than a CAFCASS Officer....Paragraph 40 I am satisfied that ..the CAFCASS reporting officer, has reached the limit of what he can achieve with R, and that further intervention by CAFCASS might well prove counterproductive.

K (children) [2005 EWCA Civ 1094 21st July 2005 LJ Wall stated This is one of those most unfortunate cases where there is an extremely long history of involvement by the Courts, and where, at the end of that process, the Court has failed to arrange contact between a father and his children (para 2), the gravity of the outcome, both for the children and for Mr. K, and the circumstances in which the children have come to be alienated from him both seem to me to be factors which entitle Mr K to address the full Court on an Application for permission to Appeal with Appeal to follow (para 4).

I therefore request permission to Appeal the orders of Mr Justice Coleridge of February 22nd 2006 of the Courts own motion and of March 29th 2006 flowing from that order and a stay of the order dated 31st March 2006 with the bodies already in receipt of the order and judgement namely the children's school, the GP, Hampshire social services all be ordered to destroy their copies and to disclose any other individuals, or other bodies in receipt to do likewise.

Documents are available in support of the above and much more. The question also remains is will the DCA consultation be evidence based or rely on hearsay and allegation much as the Family Courts do and ignore the basic procedures in law and common sense?

On behalf of Family Links International FLINT http:www.familieslink.co.uk

Signed:

Shaun Paul O'Connell BSC PGCE