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Petitioner Letter of 6 July 2014 – Updated 17 July 2014

PUBLIC PETITIONS COMMITTEE: PETITION PE1513

Members of the committee,

Having received and read the responses from the bodies the committee had asked for opinions from, I have come to the conclusion that many of these bodies would rather debate over the figures I had researched than the actual issue itself. If indeed my figures are inaccurate, and the true figure stands at 3,009 (5.2%) births registered to a sole parent, then I concede this point without contest. I am no statistician and have used my abilities as best I could. But the stark reality is that still leaves around half of the projected figure I had previously stated in vulnerable positions, a number still far too high.

As for the debate surrounding the naming of my petition, the fact that many perceive it to be solely about fathers' rights, I merely used this name to indicate the exact area of legislation I wished to be focused upon and I am greatly heartened by the fact that at least one responder, Ian Maxwell of Families Need Fathers, grasped this concept and realised that the petition is not parent orientated. Rather it is child orientated and its sole intention is to focus on what would be best for the child. In particular every child's fundamental right to have contact with both parents unless it is in their best interests not to allow this. I can understand where the misunderstanding is arising in that the only groups who are not protected under current legislation are unmarried fathers. Provisions are in place for divorced couples, unmarried but living together at time of conception, separated & even unmarried fathers who register a birth with the mother, but unmarried fathers who do not face struggles no other group does. On the parents side of the issue this is clearly discrimination, but from the point of view of the child this can mean they are denied a parent. Regardless of the number of cases this actually happens in, the fact it happens and we do not guarantee every child this right is a failure to uphold our commitment to the UN Charter 'The Rights of the Child'. Let there be no further doubt that this petition aims to address this inadequacy and to do so the area of the law which must be addressed is the rights of unmarried fathers.

Much has been made of the fact an unmarried father has many legal options open to him in order to pursue court orders of contact and residence etc. but all overlook the fact that without a DNA test there can be no definitive resolution and only the opinion of the court can be taken by inference. This brings the question of what if the court infers wrongly and denies a child his or her father? What also if the court infers wrongly and decides a man IS a child's father when in actual fact, he is not? In this area I fully

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support the position of the Scottish Law Society in supporting empowering courts to enforce DNA testing, subject to the best interests of the child, and if nothing else this is the single most important change that should be made. Enforceable DNA testing, when consideration is given to the fact that it is no longer invasive and can be conducted by a mere cheek swab, would give definitive information to the court to allow it to make sound legal judgment in every single case it deems necessary. As pointed out by Mr Maxwell from the Scottish Governments National Parenting Strategy, children who have both parents in their lives perform better in all areas including exams, behaviour and further into adulthood. The barriers in place right now make it impossible for some fathers (be they the lack of perceived evidence to be granted a court order by inference or lack of finances to actually fund lengthy legal cases) to be part of their children's lives and thus will create a small, but no less significant, group of maladjusted children and adults. The same financial burden would be placed upon a woman who wished to include her child's father in their lives, at the very least monetarily. Introducing compulsory DNA testing would eradicate any doubt about a child's parentage and allow the real issues to be explored earlier in the process with regards the child's welfare and education.

I fully understand and accept without question the concerns put forward by numerous responders about the circumstances of a child being born as a result of rape or incest, but surely it cannot be beyond the scope of any future legislation to have caveats that would cover such occurrences? I do however take exception to the response by Roseanna Cunningham, in Paragraph 13.2, in which the circumstances of rape and a brief relationship are mentioned together. To suggest that these are similar circumstances in any way is outrageous! As I have stated previously I fully support the inclusion of a proviso to deal with the circumstances of rape/incest et. al. but to suggest a man be excluded simply because his relationship with the child's mother was brief is draconian, to say the very least.

I understand, from various submissions, why PRR's are not automatic and that the exposure to violent ex-partners is a real concern, particularly in this area, but I see no reason why investigative procedures cannot be put in place for situations when such circumstances are alleged. From personal experience, if a man genuinely wants to be part of his child's life and must face such rigorous investigations and/or testing, then he will willingly participate. Something akin to the PVG testing which is already carried out to allow persons to work with children and vulnerable groups. It strikes me as absurd that someone found not suitable to be part of his own child's life would pass a PVG test and be allowed to be part of another child's life. Surely these tests could be aligned, or even amalgamated and performed by a slightly expanded body on an as required basis, to carry out necessary background checks required?

Returning to the response from Mr Maxwell, I would also like to voice my support for his revised proposal regards the registration of births. An extension of the time limit from 21 days to 42 days would allow the measures with regards reasonable explanation of why a father is not registering a birth. This should not be considered to be solely women excluding men, however. It is my understanding (and I am sure something which is generally very well known) from the encounters I have had over the past 6 months or so that men often take no responsibility and refuse to register a birth. A man in this situation should be duty bound by legislation to provide adequate reasoning save he also would face reprimand. A child has the right to both parents, and if this is not possible in the child's early years then at the very least both parents should be traceable by name from his or her birth certificate. Everyone who has a child has a responsibility to that child.

I reaffirm that Article 9 of the UNCRC provides that a child should have access to both parents unless it is in their best interests otherwise. There can be no doubt that written into this article there is the proviso that the child's interests are paramount, something which has been the very centre of my campaign and something which should continue to be the paramount consideration in any changes made to the law. The child's welfare and rights must be protected, but among those rights is a right to both parents. We cannot staunchly uphold some rights whilst we turn blindly from others. Every right must be guaranteed to every child and none should rest until this is achieved.

Addendum to Address Article by Prof Elaine Sutherland, University of Stirling & Publication Presented by John Forsyth of Families Need Fathers Scotland

Professor Sutherland has addressed, as most have, the figures used in my petition. I have previously accepted the inaccuracy of my figures and accept that I am no statistician. I must point out though that whilst my figures have been discredited, each person/body doing so has qualified this discretization by stating they firmly believe that whilst the problem may not be as widespread as my figures would suggest, the fact a problem exists is in itself unacceptable and must be dealt with. Many have used the term "one is too many", and I couldn't agree more. I am in full support of this position. I am not a professional, and my research leaves a lot to be desired, but I carried out every single piece of work for my petition on my own with no help from anyone despite repeated requests for help from every possible avenue and I feel that, especially since the existence of the problem is not being denied, rather its existence is being broadly accepted, it is a little harsh to attack my petition solely on this basis, I feel, and somewhat deflects from the issue that there is a problem that must be addressed.

Professor Sutherland has also grossly misunderstood the aims of the petition (as have many others), which has again been my fault. I named the petition Equal Rights for Unmarried Fathers, and this has undoubtedly lead almost every responder into the petition with the mindset that it is parent centred. This could not be more wrong, however, and I am deeply thankful that Mr Ian Maxwell of Families Need Fathers has grasped the true aim of the petition. From the outset I have done my utmost to impress upon anyone who takes any interest in my petition that the aims of the petition are centred solely around children's rights and that fathers' rights only speaks to the exact area of the law which needs to be addressed, in my opinion. Of course any changes made, and in any new introductions, the welfare of the child must be paramount. This appears to be the view of every responder, save for Roseanna Cunningham who continually stressed the importance of the wellbeing of the mother without giving any consideration to that of the father, showing a very deep rooted discriminatory view. I fully support the wellbeing of the child being central to the laws which govern this area, and that must always be the very first consideration.

From Professor Sutherland's article, it is my understanding that there is a general support for reform; simply that she does not believe my suggestions are the correct ways to proceed. This too I am fully prepared to accept. While submitting my petition and all throughout the processes I have consistently said I do not have all the answers, nor have I ever claimed to. I have simply made suggestions as to how this area could be improved. The actual changes made must be suggested and ratified by those in far more knowledgeable positions than I, such as The Scottish Law Society who have agreed with enforceable DNA testing - although I am sure they would like to see it worded or written in a way which differs from me - and by Mr Ian Maxwell of Families Need Fathers who took another of my suggestions (the proposal for dual registration of births) but stripped it back to its bare essentials and rebuilt it into a far better proposal than mine, something I entirely agreed with.

The question of who governs the suitability testing of a parent has arisen again, and who would decide if such a test is relevant. I shall repeat my response with the answer to me seemingly very simple. A court, in any expanded powers such as the inclusion of enforceable of DNA testing, could order background checks - in my understanding such as are ordered in criminal trials - should there be any claims of violence or abuse. Any parent would be willing to be put under a microscope to be part of their child's lives and as such I see no issue with requesting this process where it is deemed necessary. As for the actual testing, I made mention previously of the PVG scheme currently in operation which judges whether or not adults are suitable to work with children and persons in vulnerable groups. This test, or some extended variation of it, would surely

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be suitable to determine the background of any (potential) parent and as such his or her suitability to play an active role in the child's life? It would seem absurd to me that a person who passes the PVG testing scheme and is able to work with another person's child would not be a suitable parent to be a part of their own child's life and therefore it would be my suggestion that the PVG scheme be strongly considered as the standard used to determine a parent's suitability. I would urge the committee to be mindful that this "suitability" should not be considered a test of parental skills or ability, rather as a test of whether or not an adult is fit to be part of a child's life.

In reference to the report by the Centre for Social Justice (which it is my understanding has only just been published as of July 2014), I would like to draw attention to page 82 which opens by stating:

"At present, the law on birth registration signals that fathers are less important to children than mothers and that less is expected of them. The mother is named automatically, but an unmarried father has to be present at the registration or submit a form declaring paternity to be named. Crucially the mother's approval is also required.

Being named on the birth certificate confers parental responsibility and gives the parent(s) the right to be involved in decisions such as where the child lives, their education, religion or medical treatment.

Although the 2009 Welfare Reform Act required the father's name on his child's birth certificate, the Coalition Government has not pressed ahead with its implementation amid understandable but unfounded concerns that this would prevent mothers from protecting their child/ren (and themselves) from violent fathers"

Crucially it has been found by the report that while considerable concerns do exist, and should be given every consideration in my opinion, that ultimately the issues surrounding these concerns would not play as large a role as some appear to suggest. I would urge the committee to take this latest research into the issue surrounding this debate and consider that this report has addressed the issues brought forward by many detractors and has ultimately found that while the concerns are legitimate and warrant the deepest consideration in the matter, they are not sufficient enough as to halt any progress we can make by a reform to the Children Act 2006. The CSJ report makes reference to DWP Impact Assessment research into reasoning for sole registration;

"The DWP's impact assessment noted that sole registrants tend to be disadvantaged and vulnerable mothers and, as well as the 2009 safeguards itemised in the box above, the Act allowed Registrars to permit sole registration and professionals (such as a social

worker or medical practitioner) to advocate for this in the mother's or child's best interests (not least where pregnancy ensued from rape). Furthermore, domestic violence did not figure prominently in the Government's research as a driver of sole registration: failure to record the father was largely due to a lack of information, and a significant proportion of sole registrations were accidental rather than a result of conscious decisions."

Many of the questions posed of the petition have been based on safety grounds and this research by the UK Governments DWP must be taken into consideration to show that while violence and abuse does exist, it is not prominent in the majority of cases as has been previously claimed. Indeed, where these circumstances do exist we have adequate facilities and measures in place to deal with these cases and support networks are available to ensure suggested safeguards (to follow) are implemented.

In Addressing my proposal for Joint Registration of Births, The report made by the Centre for Social Justice references the 2009 Welfare Reform Act and the 2008 White Paper "Joint Birth Registration: Recording Responsibility" sets out changes to the law in England and Wales to make joint birth registration a legal requirement for all unmarried parents 'unless this is decided by the registrar to be impossible, impracticable or unreasonable'. The Act states that joint birth registration would not be required where:

- a) that by virtue of section 41 of the Human Fertilisation and Embryology Act 2008 the child has no father,
- b) that the father has died,
- c) that the mother does not know the father's identity,
- d) that the mother does not know the father's whereabouts,
- e) that the father lacks capacity (within the meaning of the Mental Capacity Act 2005) in relation to decisions under this Part,
- f) that the mother has reason to fear for her safety or that of the child if the father is contacted in relation to the registration of the birth, and
- g) any other conditions prescribed by regulations made by the Minister.

"Subject to these exemptions, both unmarried parents would both be required to be named on the birth certificate. Where the mother wanted the father recorded, but this was against the father's wishes, the mother would be permitted to identify the father independently, and then he would be required to be named on and sign the certificate (subject to a paternity test if necessary). Similarly, a father who wished to be named but who was obstructed by the mother would be able to declare his paternity and have his name recorded against her wishes (subject again to a paternity test and the exemptions above)."

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The report also recommends that "The Government should implement the 2009 Welfare Reform Act Schedule 6 on joint birth registration because of:

The benefits of signaling expectations – to fathers and services Joint registration has important symbolic value: fathers matter to children and the law ought to reflect this. Fathers' failure to be registered on the birth certificate is a predictor both of decreasing involvement and low- or non-payment of child maintenance.

Australia adopted a similar measure and achieved a reduction in the levels of sole registration by 20 per cent between 1994 and 2004.

It may also encourage practitioners to think about fathers: requiring maternity staff and registrars to discuss the subject of the father's birth registration with both parents, as included in the 2008 White Paper, would help draw fathers into antenatal services on a formal basis. Maternity and teenage pregnancy services would need to have a conversation with the mother about the duty to register the father."

Despite the quite obvious derision of the Australian implementations, and despite any other shortcomings changes made there may have had, the significant reduction in non-payment of Child Maintenance cannot be ignored. The inclusion of fathers and encouragement of mothers to include fathers at an institutional level would also be highly beneficial to changing existing negative stereotypes of unmarried/separated and indeed I believe may even go some way as to changing the actions of some fathers who feel that being in this position gives license to behave in a manner unbecoming of any parent.

It should be noted that in addition to my own interpretation of Article 9 of the UN Convention 'The Rights of the Child' which I firmly believes supporting having both parents in a child's life, the report from the CSJ sights Article 7 in support in that;

"Article 7 of the UN Convention on the Rights of the Child requires countries to ensure 'as far as possible' that a child's parentage is recorded. The desire to know where we come from is a strong one – often particularly strong when our experience is the contrary. Even where a father is not present he often continues to exist in the mind of the child, and future adult."

In failing to ensure that every child has both parents named on his or her birth certificate, we fail to ensure that every child's parentage is properly recorded and as such we cannot claim to adhere to the convention in full.

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I realise many of these points have already been covered in my initial response to the committee, however I wished to reiterate and elaborate if necessary to accommodate the article written by Professor Sutherland, <http://www.journalonline.co.uk/Magazine/>, which has been brought to my attention and may be considered either on a summarised or as is basis. I do not feel that this submission has any bearing on how the committee should proceed. It is also clear that given the research by the Centre for Social Justice has considered many of the concerns held by a number of responders, and has answered those concerns in full with reasonable and applicable measures. The position of the Scottish Law Society, the CSJ & Families Need Fathers Scotland in support of enforceable DNA testing and birth registration reform, should signal that at the very least we must consider these areas for change.

With my most sincere hope and deepest regards,

Ron Park