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Views

Children come first Divorced parents have to take up the responsibilities Concern on Draft Children Proceedings (Parental Responsibility) Bill

In 2005, the Law Reform Commission (LRC) released its report on Child Custody and Access, the focus of which was to introduce parental responsibility model to replace the existing custody and access orders. There was public consultation on the Report from 2011 to 2012 on implementing the recommendation by legislation. To take a step further, the government launched a public consultation from November 2015 to March 2016 on Draft Children Proceedings (Parental Responsibility) Bill to implement the Report's recommendations.

Change in concept of raising children and its model

The basics of "parental responsibility" are "children should come first" and "in their best interests", it highlights the connection between children and parents, and to stress on the continuity of parental responsibility instead of parents' rights and authorities. We appreciate that this is an ideal concept of raising children and is important for their growth. Divorced parents should continue to take up their responsibilities and not to struggle for their personal interests. However, such a paradigm shift requires comprehensive and long-term planning such as policy, service planning, public education, legislation and other measures, etc.

Children's rights, opinions and needs

Previous consultations centered on parents' rights and responsibilities but children's opinions and needs are neglected. This Draft Bill reflects its focus on legal proceedings instead of taking its stance from children's perspective while The Care of Children Act 2004 in New Zealand, The Children and Adoption Act 2006 in England and Wales focused on the implementation of parental responsibility. Apart from that, even though this Draft Bill suggested allowing children to voice their opinions and have lawyers to represent them, yet these only apply to court cases.

When we were collecting children's opinions from divorced families, they expressed lacking in opportunities to voice their concerns and they suffered a lot. Children think that they can be represented by someone who can understand them and are trustworthy (note 1); therefore, this is disputable whether lawyers are the appropriate person to represent children. To address to the needs of children, professional support service should be provided when parents start getting divorce. We suggest setting up children support team to provide suitable professional service to these children to handle their emotions, to express their needs and participate in devising parental coordination plan, such as Australia's Child Inclusive Practice and another similar service model in Canada.

Furthermore, the Draft Bill does not review the alimony arrangement, which do not have any monitoring or mechanism to impose the paying of alimony. These, however, have been the pleas of many single families.

Government should bear its responsibility Service provision should be comprehensive and with planning

The lack of an overall comprehensive planning of the government is the reason behind the unmet need of demands. A reform by legislation might put greater pressure on divorced families. Quoting experiences from England, Wales and Australia, court cases up surged after the reform, some output assessment could not alter how parents think, the legal proceedings are abused by trouble-making parents affecting the well being of their children. In view of these, the government should consider well planned services like professional support teams for divorced families and mandatory parenting coordinating course or mediation service.

However, there are no comprehensive or resources for such planning, those support service mentioned in the Draft Bill are just bits and pieces and lacking long-term planning. There are only some social service funding for time-limited and some mediation and parenting coordination service. As early as in 2012, Hong Kong Council of Social Service and the field proposed a one-stop children-oriented on professional parenting coordination service (such as: children counselling, parenting coordination and counselling, public education, professional training and research etc). A proposal was drafted for the consideration of Social Welfare Department. It is hoped that the government could take up its role to provide comprehensive service and resources, however there was no progress. In addition, public policies such as housing, welfare, legal service should also tie in for consideration.

It is acknowledged that parental responsibility was the right direction, but without comprehensive support services, policies and other measures, in accordance with the legislation of the proceedings might cause more harm than good to divorced families.

Children's thoughts and experiences

Boy 15 years old	Father brought me to the court when I was F1, it was by then that I knew they were getting a divorce. I have always thought what was the cause of their divorce. I didn't show my feelings ... but deep down, it has an impact on me, I don't want to trust any relatives, I don't want to see anybody. They always quarrel over the phone, they never discuss face to face, I am helpless. There are many things that concern me, but nobody asked me about it, adults would never listen to children. Don't let children become megaphones ... I need to ask father for living allowance as if I owed him, I feel ashamed of it. We hope the government could consider from the perspective of children as we are directly affected by divorce, we are the first persons to be affected, and we could provide suggestions or alternatives. In the early stage of divorce, children should receive counselling service as soon as possible. When I entered secondary school, I no longer want to mention this unhappy and shameful family issue to anybody.
Girl 10 years old	I would like to see mother more, but my father disapproves of it, ...and I don't want him to be unhappy so I don't tell him.
Girl 10 years old	It's better I can see them both, however, I would not mention about father in front of mother. They use "we chat" to communicate since they quarrel whenever they meet, it's better for them to avoid seeing one another. I once asked if we could dine together, they both agreed and I felt very happy after dining together.

(Note 1: our Family and Community Core Business are collecting children's opinions to be submitted to the government.)

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