

Report of the Special Committee on Family Law

The members of the Special Committee on Family Law for the 2015 term have been Jacqueline Leong SC (Chair), David Pilbrow SC, Corinne Remedios, Lisa Remedios, Jeremy Chan and Robin Egerton. It has been a comparatively quiet year for the committee. However various of its members continue to serve on numerous committees and other bodies, mostly as nominees or representatives of the Bar, and as such provide a valuable connexion between the Bar and practitioners of family law.

The committee advised the Bar Council on various matters during 2015 including the Judiciary's proposal in relation to the mode of hearing, anonymization of the parties and the publication of judgments in matrimonial and family proceedings, measures which largely reproduced the provisions of Practice Direction 25.1 (issued in 2005). The committee proposed inter alia that the Judiciary's list of statutes to be covered by these provisions should be considerably extended to include proceedings under the Child Abduction and Custody Ordinance (Cap.512), the Inheritance (Provision for Family & Dependents) Ordinance (Cap.481), the Married Persons Status Ordinance (Cap.182), the Marriage Ordinance (Cap.181), the Marriage Reform Ordinance (Cap.178) and the Legitimacy Ordinance (Cap.184).

At the time of writing, the administration has just launched a Public Consultation on the Proposed Legislation to Implement the Recommendations of the Law Reform Commission Report on Child Custody and Access. The proposed Bill stems from the original Law Reform Commission Report issued in 1995 which proposed sweeping changes to family law and practice governing children to bring Hong Kong in line with the law in that area that had developed in other common law jurisdictions during the last couple of decades of the 20th century. That report was subject to wide-ranging public consultation. Unfortunately, the government seemed to be overwhelmed by the complexity and volume of the suggested changes resulting in a paralysis of inaction for the next decade.

In an attempt to coax the administration out of its slumber, the original omnibus recommendations were reissued in three separate proposals in 2005, a method that resulted in two out of the three areas being enacted into legislation over the ensuing years. Unfortunately, despite yet further rounds of public consultation in the early years of the 21st century, the most important and fundamental changes proposed which related to child custody and access were ignored and it has taken another decade of prevarication for those proposals to now finally be launched by the administration. The measures are now being opened to a third round of public consultation and the administration has announced its determination to finally proceed. So after a delay of some 20 years during which a whole generation of Hong Kong children have been born and grown into adulthood without the benefit of the help and protection that the rest of the common law world has afforded to its citizens, hopefully the SAR can now play catch-up.

The committee has commenced consideration of the proposed legislation and will be making its recommendations to the Bar Council in the first quarter of 2016.

I shall be stepping down from the chairmanship of the Special Committee on Family Law at the end of its current term, having served as Chair since the committee's formation in 2000. I express my personal gratitude to the numerous specialist family law practitioners who have served on the committee during my long tenure for their dedication, assistance and support. I also wish to express the appreciation of the committee to Amy Lee of the Bar Secretariat for her dedicated assistance rendered to the committee.

Jacqueline Leong SC
Chairman
Special Committee on Family Law

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