



Organisation pour la Sauvegarde des Droits des Enfants Organization for the Protection of Children's Rights

For the love of our children

Transcript of the press conference of Mr. Riccardo Di Done, President of the OPCR, regarding Bill C-22 (Divorce Act) at the Canadian Parliamentary Press Gallery on June 10, 2003

Good morning. My name is Riccardo Di Done and I am the President and founder of the Organization for the Protection of Children Rights (O.P.C.R.) – a registered charity which, with the help of its multidisciplinary team of professionals, has been defending the rights of children and teenagers experiencing problems associated with family conflicts and/or the break up of their family since 1983.

I am here today to talk about Bill C-22, the reform of the Divorce Act tabled by the Justice Minister of Canada, the Hon. Martin Cauchon.

During our 20 years of community service, we have witnessed the economic, social and human costs of marital dissolution and divorce proceedings on children first and foremost, but also on parents, grand-parents and other members of the extended family, as well as on society as a whole. A reform of the Divorce Act was long overdue.

How can a custody and access case drag on for 16 years? Why do parents feel compelled to take all available means at their disposal – from making unproven allegations, to filing for adoption or avoiding application of a court decision by moving to another province – to win or at least not to lose at any cost? Why do some parents resort to such extreme behaviour as kidnapping or murdering their children (and often the spouse as well) followed by suicide? Why do so many parents abandon or put an end to their parental responsibilities following a court decision? Why is it necessary to have a law to enforce payment of support orders? Are these the actions of parents who do not love their children or are these unwanted effects of the current legal process? Where is the best interest of children in all of this? These are legitimate questions, which should be addressed by Bill C-22.

The reform of the Divorce Act represents a unique opportunity to implement changes that will enable the legal system to meet, in concrete terms, its obligation to work in the best interests of children. These changes will have to be more than cosmetic. They will have to build upon the knowledge that divorce and other disruptions in family life impact not only the individuals directly involved but also have serious consequences on society at large and that legislation's role should not be to "force" or "impose" a solution but to provide parents with the appropriate incentives and tools to make the best choices for the sake of their children, themselves and all other family members.

Divorce is already a highly charged and painful personal experience for all involved and is especially traumatic for children who naturally love both of their parents. This pain should not be further compounded by an adversarial process that encourages parents to litigate their differences instead of resolving them. Prevention and education emphasizing dispute resolution are much better alternatives to address what is above all a human rather than a legal matter.

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To this effect, we, the O.P.C.R., recommend:

1. Putting into place family mediation services that are free, mandatory and non-judicial for all couples experiencing marital difficulties or going through divorce proceedings. Such services should also be available for grandparents and other family members in crisis;
2. The creation of a system of family reconciliation that would be available at all times for couples and families in crisis;
3. The elimination of terms that create friction between the parties. For instance, replace the expressions "legal custody" by "parental responsibilities", "support orders" by "financial responsibilities of parents" and "parenting orders" by "parenting responsibilities". We are pleased to see this recommendation, which we put forward as early as in 1984, in the current version of Bill C-22;
4. The creation of a court specializing in family matters where judges have an extensive background in family law as well as in psychosocial matters;
5. The creation of an office of formal complaints;
6. The creation of courses at the elementary and secondary level in order to educate and sensitize students about parental responsibilities. The goal being to ensure that the next generation may adequately understand and assume its role as parents.

These recommendations, which our organization has been advocating since 1984, received the support of the Canadian Association of Social Workers, l'Office de la Famille du diocèse de Montréal, the Sureté du Québec, Epilepsy Canada, B'Nai Brith Women of Canada, numerous Chief Justices and Associate Chief Justices across Canada, and many others. Successive government reports also underscored the positive effects of mandatory mediation. As a matter of fact, in its 1988 report, the Department of Justice Canada stated that: 1) a number of couples who had been required to enter mediation would never have considered that option if they had not been induced to it; 2) agreed-upon support payment amounts are 12 to 20 per cent higher as a result of mediation and that furthermore the support payment rate is greater among people who have undergone mediation than among other couples.¹

In 1998, a Special Joint Committee on Child Custody and Access conducted a twelve-month study to examine the issues relating to custody and access arrangements after separation and divorce with a special emphasis on the "needs and best interests" of children. The committee held public hearings throughout the country, at the cost of millions of dollars, and reached a consensus in its report entitled *For the sake of the children* on the need to create a culture that prevents conflict rather than promotes it,

emphasizing non-adversarial dispute resolution mechanisms and parenting education as means to improve outcomes for children.

Unfortunately, most if not all of these recommendations have not found their way or are present in a very diluted form in Bill C-22 as tabled by the current Justice Minister of Canada.

I would now like to read to you the heartbreaking account of my son who had to live through a 16-year custody and access battle that spanned three provinces, led to two adoptions and seven name changes.

“When I was young I thought that my life was a mistake – that everyone I knew would have been better off if I had never been born. I believed that my life only caused harm to those around me. In my eyes, my two families despised each other, and I felt the need to suppress my true feelings because they only made my parents angry.

I have lived through many name changes and have always gone by two different names with my two families. Each side disliked the name chosen by the other. I was torn between two families I loved, leaving me with no sense of real identity. Lost in life and full of anger, grief and insecurity, I am incapable of relaxing and enjoying myself. It is my nature not to trust and I have no confidence in my ability to succeed. I rarely smile. Sometimes the hate I feel is turned towards myself, sometimes towards my parents, and sometimes towards society as a whole. Almost every morning that I can remember, I have awakened angry at life – some days worse than others. Then everyone around me gets a taste of it, and at age 22, I have still to pull myself out of my self-made prison.

For so much of my life, I was the prize, but I did not feel like one. I hope this book will open society’s eyes to the butchery caused by unpleasant family separations. I also hope that laws will be changed to ease the process and treat children like actual people instead of objects. This could make all the difference in their ability to succeed in life. I know it would have made a world of difference for me personally.”

The suffering my son endured has left its mark on him and will follow him for the rest of his life. The same applies to his parents, who cannot be blamed for loving their child to the point of not wanting to let go and who simply did not have access to non-adversarial means of resolving their differences. And what about the suffering experienced by both my son and his grandparents at not being able to see each other during the whole ordeal? They were told that it would only be a question of time, that when my son reached 18 they would have no more problems seeing each other.

Unfortunately, both grandparents on my side died in the meantime and my son never had the opportunity to benefit from the richness of a relationship with them.

This is why I would like to remit a copy of the book entitled [*Please don't let me go Papa!*](#) to the Justice Minister in order to increase awareness about the urgent need for more humane methods of resolving family conflicts involving children. This is why it is so important that the Justice Minister remains focused on what is really at stake with Bill C-22: the best interests of children. And you the media have the power to remind our legislators that the purpose of Bill C-22 is to establish a legal framework that will in fact contribute to alleviate the suffering of the thousands of Canadian children, parents, grand-parents and other members of the extended family embroiled in custody and access battles every year. I, for one, cannot stand the idea that other people – it might be anyone in this room – might have to endure the same gruelling experience. Alone, I am but a single voice. Together, however, we can and must make a difference. For the love of our children!

¹Richardson, James, *Court-based Divorce Mediation in Four Canadian Cities: An Overview of Research Results* (Ottawa: Department of Justice, 1988).