

The Cheltenham Group

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Date : Wed 2 Aug 2006

to : Daniel Robinson
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Dear Mr Robinson,

Cohabitation consultation, 2006

Please find enclosed our submission.

Would you please answer our question (see page 2 point 3) about the exact source of these proposals : There is no transparency in present day government, or put it another way, there is too much secrecy. We would be interested to know the exact source of these proposals, and do not accept that the statement "members of the House of Lords" is adequate explanation of the sources.

Yours,

Barry Worrall
Director, The Cheltenham Group

Response to cohabitation consultation from : The Cheltenham Group, 2 Aug 2006

Introduction

We note that the logic behind these proposals appears to come from feminist persuasions. The feminist agenda is to destroy men's rights in the family [1]. They note that marriage is beneficial to women, and dangerous to men [1]. They therefore consider that if marriage is unpopular, and many men are not marrying, then we should ensure that, as far as possible, the same rules apply to cohabitation as apply to marriage. In other words, if men will not submit to the rules of marriage, then these same rules should, as far as possible, be forced on them.

Objections to these proposals

We strongly object in principle to the proposals for 3 major reasons :

1. Marriage decreasing in popularity with men, correct this problem not cohabitation

We note that the proposals do not significantly investigate why marriage is unpopular with men. We know that it is unpopular because of the injustices perpetrated on men in divorce.

The Cheltenham Group has shown that marriage and fatherhood are, for men, dangerous states, essentially because of the vastly unjust outcomes against men in separation and divorce [1, 2, 3 & 4].

The reasons that marriage is unpopular is because it is now common knowledge in society generally that marriage and fatherhood are dangerous projects for men. Most men know of friends and family members who have been served deep-seated injustices by the courts. Young men are often heard to express serious concerns about their prospects with regard to courtship and possible marriage.

While people generally understand these issues, they are not usually familiar with the specifics of current matrimonial and family law, mainly because they have not had time to study the detail, but partly because of the complexity of existing laws.

Conclusion : If marriage is unpopular, then change the laws on marriage, to make outcomes just for men. The Law Commission should be investigating matrimonial and family law, not cohabitation.

Conclusion : The Law Commission will not receive objections to these proposals from many women's groups, who probably make up a substantial proportion of Consultees.

2. Complexity of existing laws is already too great for ordinary people to comprehend and for judges to interpret sensibly

Existing matrimonial and family law is overly complex. Judges already have such gross discretion that applicants cannot forecast outcomes of matrimonial and family law cases with any certainty.

People need certainty if they are to manage their lives in a sensible manner, and provide order in their lives. Current laws do not allow this.

These proposals add another layer on complexity to laws that are already over complex, and as such already cause problems for those subject to these existing laws.

Judges are dealing with so many principles that they get confused over which should take priority. An example can be found in common attitudes in judges : if a man supports a women for decades, by his own work and she is not required to work, at the end of this most people would say that the women owes the man something; however judges usually consider that the woman has made the sacrifice and so the man owes the woman something, so confiscates his life savings and makes them over to her.

Judges and lawyers make money from complexity, as cases take longer to deal with, and ordinary people need more advice from lawyers. So you will not find many lawyers objecting to these proposals.

Conclusion : If existing laws are overly complex, then the Law Commission should be investigating reducing their complexity, not adding to it.

Conclusion : The Law Commission will not receive objections to these proposals from many lawyers, who probably make up a substantial proportion of Consultees.

3. No public demand

Laws in the UK are no longer being made because of public demand. There is no evidence in the proposals of such demand.

Conclusion : there is no public demand, so the Law Commission should not be investigating cohabitation law.

Conclusion : There is no transparency in present day government, or put it another way, there is too much secrecy. We would be interested to know the exact source of these proposals, and do not accept that the statement “members of the House of Lords” is adequate explanation of the sources.

References

1. *Restoring Control over matrimonial and family law : ensuring that the people and Parliament have control over law making and policy*, The Cheltenham Group, March 2002.
2. *The Emperor's New Clothes : Divorce Process and Consequence*, 2nd Edition, The Cheltenham Group, February 1998, ISBN 1 900080 03 6.
3. *The NAPO 'Anti-sexism' Policy & Lack of Available Remedies*, The Cheltenham Group, 11 June 1998.
4. *Submission to the United Nations Human Rights Commission : Violations of Articles 23 & 7 of the International Covenant on Civil and Political Rights (ICCPR) by the United Kingdom (UK)*, The Cheltenham Group, 28 April 1999.

Online access : PLEASE START at www.c-g.org.uk/publics/rcomfl/report.htm from which other references may be browsed online in separate windows.

For further information you may contact :

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Copy : Jim Coussins MP (Newcastle Central)

Dear Mr Robinson,

Thanks you for your letter of 16 Aug 2006.

It seems to me that these proposals have come from 3 (probably feminist) Baronesses and 1 (probably bewildered) Lord. There is nothing in what you say that indicates any public demand.

I have read the LC Ninth Programme of Law Reforms, looking for the Term of Reference that indicates that the LC should determine public demand for a proposal before it is taken forward, but I can find no such Term of Reference.

1. Will you please clarify to me, if the LC is required to assess public demand, before a proposal is taken forward.
2. Please also add the enclosed points 4 & 5 to my previous submission.

Yours,

Barry Worrall
Director, The Cheltenham Group

Supplementary Response to cohabitation consultation from : The Cheltenham Group, 22 Aug 2006

Introduction

We wish to challenge the basis for the Law Commission's authority for these proposals. We note that many people do not accept the terms of marriage for good reason [1]. However these proposals would change their status, and there is a serious danger that they will not be consulted or even informed of this.

Objections to these proposals

We strongly object in practice to the proposals for other supplementary reasons :

4. Acceptance of cohabiting couples to the proposed new laws

We have here, laws proposed by a select few people (in this case those in the House of Lords who are not elected and represent no one), and we are told they have come from 3 (probably feminist) Baronesses and 1 (probably bewildered) Lord. These proposals, if made law, would be forced on an unsuspecting public. As with most of matrimonial and family law, the public are not consulted, and are not even informed, of changes that affect their rights in the family.

Laws in the UK are no longer being made because of public demand. There is no evidence in the proposals of such demand. Nor is there any evidence that those who will be affected by these proposals (if they are made law) will be consulted or even informed about the changes that affect their cohabitation.

In other words, those who have preferred to cohabit, rather than marry, should be consulted, to ensure that they agree to the proposals that will affect their rights in the family.

To do this in an ethical way, would involve writing to all those who cohabit, explaining the changes before they come into effect, and to give these people the options of :

- a) Remaining cohabiting on the terms they understand they have accepted
- b) Moving to the new cohabitation laws
- c) Getting married, to be on the current terms of marriage.

If this process is not done, then many millions of people will find themselves subject to laws they never asked for, never wanted and certainly never accepted as being reasonable. Also without even being aware of the changes until they are directly affected by them at separation.

Conclusion : The Law Commission must ensure that there is public demand, and especially from those affected i.e. those currently cohabiting.

Conclusion : If the proposals become law, the Law Commission (or Lord Chancellor's or whoever) should write to all those cohabiting, and who would be affected, to inform them of the impending changes (with date of effect and details of the changes). This is so that they may consider whether

they wish to accept them or not, or whether they should remain on their existing terms or move to new cohabitation terms or to the terms of marriage.

4. Offer of pre-nuptial / marriage contracts

Given that the resulting situation for those living together will involve the options of :

- a) Cohabiting, without these proposals
- b) Cohabiting, with these proposals
- c) Marriage

It would seem sensible to offer cohabitants and those married (to provide equality of opportunity), the option of moving onto a marriage contract drawn up to suit their own circumstances.

Conclusion : If the proposals become law, the Law Commission (or Lord Chancellor's or whoever) should write to all those cohabiting or married, to offer them the option of moving onto a bespoke marriage contract.

References

1. *Restoring Control over matrimonial and family law : ensuring that the people and Parliament have control over law making and policy*, The Cheltenham Group, March 2002.
2. *The Emperor's New Clothes : Divorce Process and Consequence*, 2nd Edition, The Cheltenham Group, February 1998, ISBN 1 900080 03 6.
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