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NAK Newsletter

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IN THIS ISSUE, we'll look at:

- 1. Young Children are always better off with their natural mothers - ALMOST.**
- 2. Legislative Link – Maternity Leave.**

Young Children are always better off with their natural mothers -- ALMOST

1. In 1988 a father (let's call him Adam) applied to Court under the Adoption Act to adopt his natural twin daughters. The twins were born in 1983 from his cohabitation with Eve. Adam left Eve and the twins in 1985 to marry another woman. But he loved his children and kept in touch with the twins.
2. While Adam was successful in his business, Eve was not. Eve ran into financial difficulty. In January 1988 she signed the consent forms agreeing to Adam and his wife adopting the twins and handed the twins over to Adam and his wife. However as the adoption proceedings progressed, she changed her mind and objected to the adoption. Instead Eve applied for custody of the twins under the Guardianship of Infant Act. Custody of the twins was granted to Eve. But within 3 months the twins suffered from excessive caning and bruises and had to be hospitalized. Adam applied to Court and this time the Court awarded custody of the twins to Adam in late 1988.
3. As was the usual procedure, the social welfare officer from the Ministry of Community Development investigated the family circumstances of both Adam and Eve. The officer concluded that Adam could provide a better home for the children, Adam could provide financial security for the children, it would be in the interests of the children to be adopted by Adam and recommended the

adoption petition for the Court's approval. Adam thought that it was an open and shut case. In his affidavit, he alleged that Eve was a dance hostess.

4. However when the Court heard the petition, the former Chief Justice Wee CJ took a different view of the circumstances. There were records of arguments between Adam and his new wife. The Court was convinced that Adam's home environment was not ideal for the children. The Court also noted that the allegations of Eve's abuse of the children and alleged occupation (dance hostess) were not proven. And this notwithstanding the Court's finding that Eve had up to Secondary two education only and earning \$3,000/- a month as a public relations officer. In rejecting the adoption petition, the Court expressed the wisdom that :

“thousands of years of human experience has shown that young children are always better off with their natural mothers” (unreported).

The Court felt that the social welfare report did not pay sufficient heed to this wisdom.

5. This wisdom has prevailed in other aspects of family law.
6. During a marriage, a husband who quarrels with his wife, takes his children to live with him in another home may be accused by his wife of harming their child. The police and Court will prefer to err on the side of caution by “rescuing” the child from the father. In contrast a wife who does the same is assumed to be protecting the welfare of her child.
7. In the case of divorce, the Court usually grants the custody of young children to the wife. The husband has to make do with access orders. In a recent case a graduate mother in the throes of separation and divorce lodged repeated police complaints that her husband was abusing their son during his access to their son. Each time the husband was required to report to the police station for questioning (sometimes with the son in his arms). Each time the police found no evidence of child abuse. But the repeated police reports achieved the effect of disrupting the husband's access to his son!
8. In the United Kingdom, fathers have realised that they were getting the short end of the stick. Their case is that women, the judicial system and welfare officers handling divorce and other family law investigations were prejudiced against fathers. They banded together to form a charitable organisation called Family Needs Fathers. By collective effort, their representations and opinions have sometimes been taken into account by the UK Lord Chancellor's Advisory Board on Family Law.
9. Children need access to their father for their social and disciplinary development. Family Needs Father's strongest argument was that the Court should prevent

vengeful mothers from harming the interests of their children by hindering the father's access to the children.

10. Families Need Fathers' more radical argument was that fathers should be presumed innocent until proven guilty – when faced with allegations of abuse, fathers should be accorded the full protection (and scrutiny) of the criminal law system before the Court act on the allegations to deprive the fathers of access to their children.
11. While Families Need Fathers might have overstated its case on some issues, there is room for dialogue amongst the various stakeholders (including women's groups and father's organisations) to find the right balance in their competing interests and claims. There may be a need for a similar organisation in Singapore for such a dialogue to take place here.

LEGISLATIVE LINK – SEE WHAT THE STORK BROUGHT IN : MORE MATERNITY LEAVE

Half a year ago the Budget Debate resounded with cries for the stork to come. At that time many Members of Parliament sounded the alarm that Singapore's birth rates had plunged to amongst the lowest in the world. Now six months later the stork answered came in the form of baby incentives.

The legislative changes to make way for more babies were amendments to two Acts of Parliament, namely, the Employment Act and the Children Development Co-Savings Act.

The Employment Act was changed mainly to increase the maternity leave entitlement from 8 weeks to 12 weeks. However there was no change to the salary entitlement during the maternity leave. Hence under this Act women are entitled only to 8 weeks of salary during maternity leave and only for the first and second child. Hence women who do not qualify for the incentives under the Children Development Co-Savings Act will have to make do with no pay for that extra 4 weeks of maternity leave (for their first and second child birth) and with unpaid leave for all 12 weeks (for their third child birth onwards).

The Children Development Co-Savings Act was changed to the same extent to increase maternity leave entitlement from 8 weeks to 12 weeks. In this case however the salary entitlement was also increased correspondingly, from 8 to 12 weeks of maternity leave and the order of childbirth also extended to the first 4 childbirth. This more generous regime applied only to married Singapore citizens. This led at least one Member of Parliament to lament that single mothers do not benefit from the extra salary entitlements. In reply the Minister made it clear that the Government did not wish to encourage the birth of children out of wedlock and felt that 8 weeks of salary entitlement under the

Employment Act was sufficient. Implicit in this was the assumption that single mothers could nurture up to two children born out of wedlock due to their financial and emotional constraints. Any more (it might have been assumed) would be a financial burden to society and should not be encouraged.

The legislative amendments did not forget the financial interests of employers. Employers are entitled to recoup the extra 4 weeks' salary from the Government. Similarly self-employed women will be entitled to claim the full 12 weeks' loss of income from the Government.

Other changes to the Employment Act include a new Section 87A. This provided for a maximum of 2 days' child leave per annum for both men and women. However the amendment is not without ambiguity. Its Subsection (1) suggests that the 2 days are fixed irrespective of how many children the employee has. But in Subsection (2) the reference to "any child" and "a child" may imply that there is 2 days' leave per child so that an employee with 4 children may ask for 8 days' leave! However if the Court takes cognizance of the Parliamentary debates, the Minister's speech should suffice to show that the 2 days are fixed irrespective of how many children the employee has.

Finally in the Parliamentary debate there was some confusion as to whether these changes to the Employment Act would benefit managers and executives. This was shown by the Minister for Manpower's statement that "Although managers, executives and confidential staff are excluded from this Act..." The Minister might have in mind the provisions of Part IV of the Employment Act which applied only to workmen and employees earning less than \$1,600/- a month. However maternity leave and the new Section 87A found in Part IX of the Employment Act apply to all employees regardless of their income.

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