PRINCIPAL FAMILY COURT JUDGE FOR NEW ZEALAND

TE KAIWHAKAWĀ MATUA O TE KŌTI WHĀNAU

Judge Laurence J Ryan

Wednesday 19 April, 2017

Statement from the Principal Family Court Judge

For Immediate Release

Debate about the Family Court

In recent weeks criticism of the Family Court has been aired publicly based on anecdotal experiences of a sample of people who have sought the intervention of the court to help resolve disputes in their personal relationships. Some of the accounts contain serious allegations about the safety of the Family Court.

About 60,000 applications are lodged with the Family Court every year. The Backbone Collective, which has gathered and publicised the complaints, has chosen to highlight its concerns by selecting 10 court users to formulate a long series of questions based on their experiences. It now demands that every question be answered.

Many of the questions addressed to this office relate to matters either already being actively considered by Parliament around family violence, or which have been dealt with by Parliament relatively recently. New Zealand is a robust and open democracy, and a common feature for ensuring the integrity and impartiality of the justice system in countries which share these values is an independent judiciary. Although the judiciary in New Zealand is an arm of government, it is independent of the executive of government (Cabinet) and Parliament. There is a clear separation of powers. Therefore, policy and law making, and public engagement in that process, is for the people's elected representatives. It is the judiciary's role to interpret and apply independently the laws they pass, with guidance from legal precedent and the higher courts.

Responses to family violence, the care and protection of children and the court's role are rightly a matter of high public interest. Although by convention judges do not engage directly in public or political debate, nor do they wish to stymie or discourage such debate. However, for the community, policymakers and lawmakers to discuss these issues meaningfully it is

important that debate starts with accurate information. Unfortunately a number of the questions the collective now wants answered are premised on erroneous or flawed interpretations of, and assumptions about, the current legal framework in which the Family Court operates. Broadly, these include claims that:

- The Family Court is closed, secret and hidden.

  In fact the Family Court has been increasingly open to news media since law changes in 2004 and 2008, and many of its proceedings can be reported publicly. Family Court appeals data is published annually and more and more Family Court decisions are available online at www.districtcourts.govt.nz, a website set up especially to enhance transparency. Since the site's establishment nine months ago, more than 200 cases have been published online.

- The Family Court is unaccountable and not independently monitored.

  All decisions of the court are open to appeal. This is the safety valve inherent in the New Zealand justice system. It exposes judicial decisions to further scrutiny and accountability. As well, judicial conduct is held accountable through the Office of the Judicial Conduct Commissioner, an independent complaints body that reports to Parliament and adheres to international best practice.

- The Family Court minimises allegations of family violence during consideration of parenting access matters.

  Under the Care of Children Act 2004, judges must take into account protection from violence when considering the welfare and best interests of a child. There are mechanisms available to the court so parental contact orders do not force parents to meet when there has been violence between them. Where there is a final protection order and there is a parenting application, the legislation spells out what matters the judge must further consider. The principles covering parental contact are defined in legislation by Parliament, not by the father's parental rights.

As the Principal Family Court Judge, it particularly concerns me that Family Court judges are being painted unfairly as uncaring and unprofessional and as putting people in harm's way. This risks undermining public confidence in the courts and the impartial administration of justice, especially among people who may desperately need the court's help during a distressing period of their lives.

I am proud of the increasingly holistic approach Family Court judges are taking to the complex matters they must consider, based on ongoing education, professional development, and peer review. This is helping families find workable arrangements that aim to protect the most vulnerable and help people to restore their lives.

Judges take an oath to do right to all manner of people after the laws and usages of New Zealand, without fear or favour, affection or ill will. Family Court judges are deeply committed to honouring this oath. It is understandable that not all people who are enduring broken, painful or damaged relationships and who come to court seeking resolution or justice will go away satisfied. But a combative debate that pits the judiciary against those who rely on the court's help, guidance and intervention is not conducive to improving outcomes, especially for children.

For all these reasons, it is not appropriate for the judiciary to respond in the way the collective seeks. Nor do I intend to make any further public comment on the collective's campaign and allegations made therein.

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