RIGHT TO BE A PARENT WITH DIGNITY AS A NEW HUMAN RIGHT

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ABSTRACT: Today, to be a parent with full dignity means to have a lot more than one usually does in practice. The legislator sometimes, accidentally or intentionally, fails to regulate already existing social relations in an appropriate manner, or fails to regulate them at all. Also, the application of existing law is sometimes rather difficult, due to ignorance or inability of those who are supposed to apply the law in individual cases. That is mostly because they do not use the interpretation of the law as a mechanism to apply the law.

That is why some initiatives were started in the past few years by the NGOs which have been involved in the program of providing better life for the parents in Serbia. After a short overview of those initiatives and author’s involvement in them, this paper will present a proposal for some new pro-natalist measures that can establish a new human right (to be a dignified parent), even though the current laws provide sufficient conditions to make the parenthood work in practice.

KEYWORDS: parenthood, dignity, initiatives

INTRODUCTION

Parenting is a kind of psychological, emotional, economic and financial adventure associated with the acquisition of a number of new skills, and balancing (constantly) with the time that is at parent’s disposal.

National legal frameworks for parenting are quite different. However, when ratifying the international documents and convention, a state can preserve, reduce or increase the level of rights for parents. Where is the ‘catch’? We often talk about children’s rights and freedom. Parents’ rights do not seem to be that significant to be regarded separately from the children’s rights. They are considered to be the same thing. Or, are they?

According to international documents, ‘parental responsibilities are a collection of duties and powers which aim at ensuring the moral and material welfare of the child, in particular by taking care of the person of the child, by maintaining personal relationships with him and by providing for his education, his maintenance, his legal representation and the administration of his property’
[Recommendation No. R (84) 4]. In Principles of European Family Law Regarding Parental Responsibilities of the Commission on European Family Law, in Principle 3.1, titled: Concept of parental responsibilities, it is said that:

'Parental responsibilities are a collection of rights and duties aimed at promoting and safeguarding the welfare of the child. They encompass in particular:

(a) care, protection and education;
(b) maintenance of personal relationships;
(c) determination of residence;
(d) administration of property, and
(e) legal representation'.

Some go even further and talk about Parental Rights Doctrine, that is recognized in the Supreme Court decisions\(^1\), in order to preserve and strengthen the relationship between a parent and a child, and that is constitutionally protected [Quilloin v.Walcott, 434 U.S.246 (1978)]. From the aspect of our national framework, we can observe the rights of parents in the context of the right to work without restriction (in our domestic practice, we had cases of clauses in the employment contracts for female employees, which implied the obligation not to get married or give birth to children in the next five years), the prohibition of mobbing based on parental status [Official Gazette RS, 36/2010], prohibition of discrimination based on marital and family status [Official Gazette RS, 22/2009], as well as a number of mechanisms of financial support to families with children at national [Official Gazette RS, 16/2002;115/2005;107/2009], provincial [Official Gazette APV, 4/13] and local levels.

Still, what can really help parents to do parenthood with dignity?

SOCIAL ACTIVISM AND INITIATIVES FOR PARENTS STRENGTHENING

In the Program of demographic development of AP Vojvodina [Official Gazette APV, 3/2005], we can find one specific aim: lowering the psychological cost of parenthood. Parents are under very strong social and personal pressures and expectations of being good parents, dedicated to the child all the time, but also dedicated to his/her work, friends and primary families. According to the authors of this program, the index of parenting stress in mothers is increasing due to the conflict of roles they have in modern times. Women wanted to get out of the houses and work in order to achieve their own financial independence. That financial independence has generated psychological pressure in other situations in which they have their traditional roles of moth-

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\(^1\) They talk about several principles that are listed in famous court decisions and precedents, during the activity of the Supreme Court, full text on:
http://www.parentalrights.org/index.asp?SEC=%7B3051ABFF-B614-46E4-A2FB-0561A425335-A%7D. There is a specific parental movement, dedicated to changing the American Constitution with this Parental Doctrine:
http://www.parentalrights.org/index.asp?Type=B_BASIC&SEC={4771B53E-D345-4753-BEF4-68C1CA71CE13}. Also, great list of important cases is available on:
http://familyrights.us/bin/Constitutional_Rights_Parents.htm
ers and wives. Therefore, there is always a constant need for helping women (more than men) who are struggling with modern achievements and traditional roles. Reconciliation of those roles could reduce the psychological price of parenthood, although on the other hand, it could also “reduce the possibility of carrying out reproductive, protective and corrective functions, affect the position of the child in the family, and cause other changes therein.” This paper covers only the psychological cost of parenthood which includes all other costs.

The objective of this short study was not to show the already existing mechanisms of population policy, but to show that social activism and initiatives that came from the NGO sector can equally well and positively help to resolve the problems in this area, especially to reduce the psychological cost of parenthood. Such initiatives are more successful and authentic, because they are either led by parents or have parents as active participants. Parents are the subject of these regulations. They are on the front line for the enforcement of rights and the implementation of the law and other regulations that stipulate their rights and obligations. The parents are the ones who realize that the system, sometimes, does not work and they suggest appropriate and effective change in the legislature.

In 2006, the first NGO named ‘Parent’ was established\(^2\). Its founders are parents in the first place. Their professional occupations are lawyers, economists, doctors, social workers, activists. Their intention was to suggest the authorities some better and more efficient ways for the realization of some rights, and to suggest the need for changes when necessary. They have all encountered misunderstanding in the proceedings that concerned their rights as parents and the rights of their children. In this regard, it was noted that despite the solid legal framework in this area, there was no sensitization of government authorities to deal with this issue, even by those who dealt with these issues in their jurisdiction.

After 8 years of specific social activism, this NGO and its ideas grew to the number of 14 NGOs on the territory of Republic of Serbia (six of them in Vojvodina)\(^3\). During this period, they became an important factor in preparing the documents, laws and strategies at all levels of government (national, provincial, or local). It seems that their true power comes from the authentic requests, although they are always supported by statistical and other relevant research; they also have a ‘touch of subjectivity’ and a relentless, tireless will to improve the living conditions of parents and children in the state.

All initiatives launched by this NGO were aimed primarily at reducing the psychological cost of parenthood, such as participation in the development of the Strategy to encourage births in 2007, when the state accepted a proposal regarding the age limit, for women entering their first artificial insemination, to change from 35 to 38 years (exactly because of the women’s conflict between traditional and modern roles that are imposed on them), or the final hearing on the Fund for social inclusion and care of vulnerable groups in 2014.

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\(^2\) The author was one of the co-founders of this NGO.

\(^3\) All about this network on: www.roditelj.org
Even when the proposed measures, at any level, were of exclusively financial nature, they were secretly directed to reduction of the highest price that a modern (wo)man pays – the psychological price.

This network of NGOs, with the same name, ideas, and visions has participated so far in numerous hearings regarding:
- single parents and their financial and psychological status,
- poverty reduction, especially for vulnerable groups of people
- safety and health of children, at all levels of government.\(^4\)

One of the pronatality measures that were adopted by the state parliament was the initiative to eliminate additional tax rate for hygiene products and baby food; this was accomplished in 2012. National Initiative for the abolition of VAT on equipment and food for babies was coordinated by the NGOs ‘Parent’ (the whole network of 9 NGOs at that time), internet portal ‘Bebac’, ‘Fund B92’ and NGO ‘Halo beba’, and signatures were collected in more than 50 cities in Serbia in the period from the 2\(^{nd}\) to 8\(^{th}\) March, 2012. More than 480,000 people signed this petition, which was accepted in May, the same year. The first attempt to launch this initiative was in 2004 when almost 800,000 people signed it, but there was not enough political will to accept it.

The decision on the return of VAT for baby equipment came into force on January 1, 2013 [Official Gazette RS, 107/04; 65/05; 63/07; 107/12; 120/12,74/13]. Three requirements must be met by parents in order to acquire eligibility for a VAT refund:
- The child cannot be older than two years
- Total income of the family cannot be more than RSD 981,120 per year
- Parents cannot own a property which value exceeds RSD 23,914,800 million (200,000 €)

A parent can apply for this kind of refund twice a year, in January and July. The only information that a parent must give in the request for a refund is personal identification number of both parents and a child (which are necessary in order to verify the citizenship and income of the parents), so no additional documents and evidence are required for the submission in that respect.

Parents apply for this refund to the organizational unit of the Tax Administration on which territory they reside. During the child’s first year of life parents can reimburse the tax amounting to RSD 40,880, but in the second year, this amount is reduced to RSD 30,660. The state provides tax refund for the following items: milk for infants, porridge, bed, cart, car seat and diapers.

The second campaign regarding the priority for pregnant women in all aspects of everyday life and mother with little children was launched in 2012 and it was successfully completed in 2013. That initiative was strongly accepted by the president of National Assembly of Republic of Serbia who proposed amendments to the Labor Law in order to prohibit employers to fire

\(^4\) The Ministries of health, education and sport and youth have accepted earlier this year, in May, an initiative that was given by this Parent network: all school kids, in order to prevent some health risks must have access to a free systematic health check like professional athletes have, once a year. This is a way of preventing some specific diseases and other health risks and could be noted as indirect measure of pronatalist policy.
women who are on their maternity leave and who had part-time employment contract.

Another campaign, ‘Right for mothers – Bravo for mothers’ (‘P(B)ravo za mame’) was started on March 8, this year (2014), with the aim of enabling the compensation payment for pregnant women and new mothers (during their maternity leave) to be paid directly from the national budget to their bank accounts instead of their employers’ accounts. Three NGOs – ‘Parent’, ‘Center for moms’ and ‘Serbia on the move’ have implemented this campaign in a manner so far unknown to the public. The campaign was conducted by four separate teams, made up of women activists and trainers from these organizations. They carried out a brief training for the campaigners – future mothers and mothers with children aged up to five years, providing them with the knowledge of lobbying. Each participant, who had never been involved in social activism before, was directly affected by the financial problems-delay of financial compensation for the period of maternity leave. This delay, to our knowledge, lasts for a minimum three and maximum nine months. Each participant was ‘assigned’ a member of National Assembly, based on the place of residence, in order to establish personal, direct contact and to arrange a meeting with that member in order to discuss face-to-face about the goals of the campaign, and to seek support when the proposal to amend the law came into assembly procedure.

The campaign was completed successfully, again in May, with more than 150 ‘promised’ votes of the Assembly members. Having in mind that promises can be forgotten, every promised vote was documented with a photo of a member and the participant of this campaign carrying a paper with ‘I vote for moms’ written on it.

CONCLUSION

When there are no children, there are no families.
No families, no societies.
No societies, no states.
State cannot function without people.
That is why we think that parenthood, done with full dignity, must be constituted as a human right due to all modern challenges and obstacles.

The future generations need more than just promises and laws which are good, and some of them even great, but which are not implemented in real life. There must be something wrong with a society which does not help families to reduce various costs of parenthood. We hope that new parental initiatives for better life of parents and children will not be launched anymore because, then, it will mean that the system works properly. Until that day, we think that the state should cherish those initiatives because of their authenticity and everlasting desire to improve and help the country.

We strongly recommend taking following measures and activities:
– continuous financial support for families with children in the same or greater extent, especially in case of families with three or more children.
– penalty for employers, by relevant state bodies, who do not apply valid legal provisions in the field of population policy, especially insisting on strict application of the enacted laws.
– prevention of abuse and penalties for those who commit abuse, particularly in the sector of financial support to families with children
– reduction of psychological cost of parenthood by guaranteeing the job for at least one parent and protecting particularly the working women-mothers and to-be mothers.

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ПРАВО НА ДОСТОЈАНСТВЕНО РОДИТЕЉСТВО
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САЖЕТАК: Бити достојанствени родитељ у данашње време значи имати много више него што је то случај у стварности. Законодавци понекад намерно или случајно не регулишу већ постојеће друштвене односе на начин на који би то требало, или их уопште не регулишу. Такође, примена постојећег закона је понекад веома тешка због незнан његове примене и немоћи оних који би требало да га примењују у појединачним случајевима. Разлог томе је углавном тај што се тумачење закона не користи као механизам за његову примену.

Управо зато су невладине организације које су усмерене ка остваривању бољих животних услова родитеља у Србији покренуле неке иницијативе у протеклим пет година. Након кратког осврта на поменуте иницијативе, као и ауторкино искуство са тим иницијативама, овај рад предлаже неке нове пронаталистичке мере које могу допринети стварању новог људског права (права на достојанствено родитељство), иако нам важећи закони пружају довољно могућности да такво родитељство и остваримо.

КЉУЧНЕ РЕЧИ: родитељство, достојанство, иницијативе