

Maintenance of Parents Act [Amendment] Bill
2nd reading , 23 Nov 2010 - Seah Kian Peng

Mr Speaker, Sir, I beg to move “That the Bill be now read a second time.”

Those with an eye on legal history would have noted that this is the first time in 36 years that a PAP backbencher has moved a bill. Some reporters have asked me what I think of this fact. On the law itself, I will share my wish at the end of my speech. Indeed, in answering, I find myself torn. I support family values and I know the law is needed to give force to these values. So, let me speak about values first.

Members would have read in the media the views expressed in response to the proposed amendments to the Act. I am encouraged to see that the process of tabling this Bill has generated much discussion amongst the public on the issues of family and filial piety. It has also sparked a national soul searching on the roles of love and duty in the family and on the place of parents in society.

The MPA stands for values of the society – it stands for our belief that the first port of call for help is the family; that the law should be used to enforce such values because they have an impact on all of us; that it represents the best balance between public interest and private costs. All this I shall speak about in due course. But I say now that, as a law, the Act is an instrument of last resort. I wish, as I did in 1995, that it had not come to this.

Today, some 15 years later, the Act appears to be needed more than ever. Indeed, the amendments that I am proposing reflect the concerns of myself and that of the Workgroup - the fact that these amendments are needed demonstrate not just the need for the Act, but the need for strong enforcement mechanisms to make children provide for their parents. It is a sign of individual failures in caring for the elderly in our family, and a last ditch effort at making the family work. And because I believe in the family, I believe such an effort is worth making, no matter what the cost.

Sir, I do not mean to claim that children are increasingly unfilial - far from it. Allow me to share the views of young people. Some students at the Lee Kuan Yew School of Public Policy recently did a survey of their peers, and wrote me a policy memo with their findings. The survey drew about 4,483 responses. More than 95 per cent agreed or strongly agreed that they should care for their parents, and about the same percentage intended to financially support their parents after their retirement. 43% said that within the first five years of their working life, they intend to give 10% of their monthly income to their parents, and 28% said they would give 20%. They show that a majority of young people do want to provide for their parents.

At the same time, I note that this is not an unconditional feeling – about two thirds say that they are concerned that they may not be able to support their own spouse and children, as well as their parents. Government statistics in part support this idea of a drift away from supporting parents. According to the 2005 National Survey on Senior Citizens, some 66% of those aged 55 and above receive

regular cash contributions from their children. But those who consider their children as the main source of financial support have fallen from 66% in 1995 to 44.7% 10 years later.

Here, while I do not want to be judgmental about the young, I do want to urge them not to consider their parents an “optional extra” – after their own comfort, after their children’s enrichment classes, after paying for their flat – then comes the \$100 or \$200 to their parents.

The issue is not so much a generation of children who are all equally unfilial, but rather the fact that the very institution of the family is now under more stress than ever, with an ageing population and smaller families. According to the Department of Statistics, Singapore old-age dependency ratio has been decreasing steadily since the 1970s, with the number of residents aged 15 to 64 years per elderly resident (65 years and above) going from 9.9 to 8.2 between year 2000 and this year.

This figure will continue to decrease as evidenced by Singapore’s resident total fertility rate continual decline from 1.28 births per female in 2008 to 1.22 births per female in 2009. DOS figures also show that the number of seniors aged 65 and above living on their own increased from about 15,000 in 2000 to 22,000 in 2005¹.

Faced with these stresses, I urge young people to reaffirm in their hearts that parents, spouse and children should all come together. No one group should take priority over another. If there is not enough

¹ Based on Census 2000 and General Household Survey 2005, Department of Statistics.

for meat, we all eat tofu together - as a Chinese saying goes, with harmony in the home, all things are possible. Tofu too can taste like steak if you have warmth at the table. I recall in my family of 6 of us when we were staying in our 3 room HDB flat at Mattar Road many years ago, our family circumstances were such that we did not have much to eat but whatever we have, we all shared and when someone ate first, we ensured we left some [usually more] for those after us. There is such a thing as never enough but always enough – they are 2 sides to the same coin. I have seen many happy families living on a limited and challenging household income and also seen some families with very generous and huge household incomes, but a lack of bounce and joy in their family. [to speak in Mandarin]

中国俗语说：家和万事兴。在一个充满温暖的家里，吃豆腐可以像吃牛扒一样美味。我记得多年前，我们一家六口住在麦波申一带的三房式政府组屋内。当时我们过着有什么就吃什么的日子。我们分享桌上的食物，那些先吃的，宁可少吃一点，也总不会忘记留下一些给迟一些吃的家人。

所谓：知足常乐。我看到很多低收入的家庭生活得非常快乐和满足。也看到一些富裕的家庭生活得很不愉快。

Society has changed since then, and also since the introduction of the MPA. The furore 15 years ago was about 'legislating' filial piety, which was and is an issue seen as deeply personal. Today, I see that a bigger issue is the way in which bonds between parents and children have changed, and arguably in some cases, loosened. Just as MCYS is reviewing the Women's Charter and the Children and Young Person's Act to make them more relevant to Singapore today, it is also timely to review the MPA to better reflect the sentiments and aspirations of our society, and work towards the larger goal of emphasizing the importance of family values.

Sir, allow me now to turn to the amendment bill at hand. At this year's COS debate on the budget for MCYS, I accepted Minister Vivian Balakrishnan's proposal to revisit the MPA with a view to tabling amendments as a Private Member's Bill. With the acceptance, came the realization that it was a mammoth undertaking. I knew I needed expertise and wise counsel.

I would like to take this opportunity to thank my colleagues who have worked on these amendments for their valuable contributions. Today, we will hear them address this House, giving their own thoughts on the Bill. Our workgroup was also fortunate to have the support of a very committed and competent secretariat team, as well as a pool of volunteers who came forth to share their advice and expertise, and not least the President of Tribunal of Maintenance of Parents and Commissioner who facilitated and were generous with their views and feedback.

In the course of the present review, the Workgroup which I chair took care to ensure that we have not deviated from the original intention of the Act, which was and is to deter that minority group of unfilial adult children from neglecting their duty of care to provide basic maintenance for their parents.

The Act was not, and still is not, a means to legislate filial piety – a value which should come naturally from the heart. Where filial piety has failed, and parents left in the lurch with no means to support themselves, the Tribunal continues to meet their real needs by securing financial support from their children, taking into consideration the circumstances of both parties and keeping in mind the principle of reciprocity of care.

I would also like to thank the various stakeholders and members of public who have given so much of their time to providing me with their views. Since the consultation started, we have received numerous emails, calls and letters. There have been many letters to the forum pages of different newspapers. Radio and TV programmes also provided much coverage.

The strong and warm support from all was most motivating and encouraging to the workgroup and affirmed that we are doing the right thing. We recognized from the start that there were no easy answers to an issue as deeply personal and complex as family relationships. I can say frankly that some members felt that we should have gone further, in a way echoing sentiments from some members of the public who called for a ‘fiercer’ Maintenance of Parents Act.

Eventually, the Workgroup decided to steer away from this. Instead we elected to strengthen conciliatory aspects of the Act. This reflects our collective belief that families must continue to be encouraged to resolve differences on their own, for this builds the spirits of resilience and tolerance. We also maintain that this is the optimal solution given the complex nature of family relationships, and that all of us know our own families the best.

There were also lighthearted moments amid serious discussions about what entailed “maintenance” – one member, a senior lawyer who was glued to his blackberry, asked whether broadband access counts among the bare necessities of life. For him, no doubt, it would be!

Conciliation First, Tribunal Second

Let me now turn to details of the proposed amendments. Professor Walter Woon put it succinctly in 1995 when he said that “The law is not meant to get rid of all the problems. It is not a panacea. It is a last resort.” Therefore where families have hope of resolving their differences through non-legal means, what the Workgroup proposes is an enlarged platform for conciliation, as facilitated by the Commissioner for the Maintenance of Parents.

The Workgroup embraces a “conciliation first” approach that places this process as a first recourse for cases that come forth. Bringing the case before the Tribunal should be a measure of last resort as it

begins the legal and necessarily adversarial court proceedings. Enhancing the Commissioner's role to deal with the parties at an earlier stage will better facilitate a settlement between parents and their children without having to make a claim at the Tribunal, thereby building resilient families and preserving family ties.

With the changing landscape, we can foresee a future increase in caseload under the Act. Our eventual goal is that a larger proportion of these cases will be reconciled without going to Court. That will be a good outcome!

Three measures have been proposed to this end. The first is to enhance the Commissioner's role to assist parents at pre-filing. Currently, the application process begins with a formal filing of claim with the Tribunal, which many elderly find too drastic a step. It is therefore proposed that parents who approach the Tribunal for the first time will have their case referred to the Commissioner. The Commissioner will assist them in the following ways: (a) refer the parent to other public agencies for assistance where appropriate or (b) refer the parent and children for conciliation or (c) take other measures as the Commissioner thinks fit.

Secondly, it is proposed that conciliation sessions referred by the Commissioner at pre-filing stage should be compulsory. Today, a party may not attend the conciliation session referred by the Commissioner at pre-filing stage, as these sessions are voluntary. Hence, the Commissioner should be empowered to require any party to a claim to attend the conciliation. Failure by that party to appear

will be taken into consideration by the Tribunal, when determining the maintenance application.

Thirdly, agreements that are reached during conciliation today are non-binding. There is no recourse for parents in the case of default except to have their cases filed with the Tribunal should their children default on the agreement. We therefore propose that where cases have reached an agreement through conciliation, the Tribunal President or Deputy President may endorse the agreement as a maintenance order. And this maintenance order shall have the same force and effect as if it is a maintenance order made by the Tribunal. This is a proposal for workflow improvement and simplicity. It is part of our beneficiary centric approach that we have embraced.

As of this year, the success rate of cases resolved at the conciliation stage stands at 70%. The Commissioner's Office is to be commended for the good work that it is doing. However, with the proposed measures, we hope that the success rate of conciliation will see a further increase in future. If such was the case, this would mean that lesser families would have to invoke the law to settle maintenance issues.

Reciprocity of Care

The extensive public consultation undertaken by the Workgroup has given members of the public the opportunity to offer suggestions and voice their concerns on the Workgroup's proposals. Of all the feedback received, one single topic emerged as the top concern; that

of undeserving parents. About 1 in 5 comments focused on the issue of whether the Act would protect children from parents who are deemed undeserving of maintenance. Others shared stories of the absence of reciprocity in their own families, and feared that parents would use the Act against them in future.

First, I want to state upfront that it is true that it is not always the children who are at fault. Hence to each of these responses, we assured in our replies to them that the Tribunal would take the circumstances of both parties into account, and that the Act is neither open to the abuse of parents nor a mechanism that works unfairly against children. This is the principle of 'reciprocity of care' that the Act embraces. I hope this helps to allay concerns from individuals who have written in questioning the MPA for potentially "distorting" behavior.

Some feedback we received suggested that the Act would create a 'moral hazard', dis-incentivising parents from saving for their own retirement, and encourage reckless management of finances since they can turn to their children for support when their resources run out. I concede that cases of 'moral hazard' do exist. I have had people writing to me that parents have gambled their savings away and later brought their children to the Tribunal. My own sense is that such cases of 'moral hazard' on the part of parents will not be high, but in any case such parents will be found out when the Tribunal investigates.

In a nutshell, the principle of reciprocity entails that the Act does not impose an absolute obligation on children to maintain their parents. The Commissioner and the Tribunal should be convinced that it is just and equitable. Since 2005, the Tribunal for the Maintenance of Parents has dismissed 11% of the cases heard. Some of the reasons include parents found to have neglected, abused or abandoned their children in the past, or have not exercised their moral duty to care for their children. Sad but it happens.

In such circumstances, the Act explicitly provides for dismissing the case or reducing the quantum of maintenance. My Workgroup colleagues and I witnessed some cases heard at the Tribunal which were dismissed on such grounds.

We should also be reminded that the Act is meant to provide for or supplement basic living expenses of parents. On this point, allow me to qualify that the term “basic needs” should be determined based on what the parent requires for basic sustenance at the point of the maintenance application. It should neither be about maintaining the same standard of living as before or about sharing of the children’s wealth. Therefore, parents seeking extravagant sums of money to meet other needs have come to the wrong place, and they will be disappointed. On average, 60% of maintenance orders made by the Tribunal are a monthly sum of \$300 and below.

Ideally, all children should care for their aged parents based on true reciprocity of care, where one generation cares for another because of love and gratitude for past kindness. Many Singaporean

families enjoy such loving ties with their parents. Yet, it is inevitable that circumstances are different for each family and the blame is not always with the children themselves. It is therefore important that all the beneficiaries under the Act continue to be treated in a fair and just manner.

Access to Information and Safeguarding Confidentiality

Next, I would like to touch on the issue of access to information, which is one of the proposed amendments to empower the entities under the Act. In 2008, about 14% of elderly parents who approached the Tribunal were unable to provide adequate details of their children and thus unable to proceed to file their cases. It is indeed unfortunate that needy parents were unable to receive much needed assistance as a result of this gap. These parents have simply been 'cut off' from their children in every sense of the word. In this respect, information such as the whereabouts of children or an indication of their financial status is crucial in facilitating conciliation efforts and in investigating the merits of the case.

The Workgroup proposes that the Offices of the Tribunal and the Commissioner be empowered to obtain information, records, documents or articles from such Government agency or statutory body as the Offices consider necessary. This information is to be used for the purposes of

- (i) identifying and locating the children of the parent;

- (ii) assessing the veracity of or supplementing the information provided by the parties involved; and
- (iii) assessing the ability of the parent to maintain himself and each of the children of the parent to maintain him.

We are mindful of and recognise the need to put in the necessary safeguards to manage data disclosure and also confidentiality of certain information. For a start, the list of agencies which the Offices may access information from must be approved by the Minister in-charge. Access to such information should only be exercised as a last resort, when the parties refuse to provide the information, or where the information provided is insufficient for the Offices' purpose, and all other methods to locate the children or verify the information has been exhausted.

Also, any information obtained pursuant to this amendment should not be shared to third parties unless necessary, and with the written permission of the source agency. These safeguards will ensure confidentiality of the information.

Administrative Expediency and Beneficiary-Centric Processes

In reviewing the Act, we also sought to ensure that the process for claiming maintenance should be simple, straightforward, and expeditious. As is, parents and children that come forth to resolve maintenance issues bring with them much emotional baggage from the past. We believe that the administration process behind the Act should be beneficiary-centric in that any additional stress put on the

families should be minimized. Several measures to streamline processes have been proposed.

Firstly, we are proposing for the dismissal of frivolous or vexatious applications without the need to convene a Tribunal hearing. At present, there is no restriction on the number of times that the same person can make a fresh maintenance or variation application. An applicant may make multiple applications even though previous application had been dismissed or there is no substantial change to the parties' circumstances.

I recall in particular, a member of public who had written to me explaining her predicament. Her father in-law had made repeated applications against her husband, and the family has been summoned for multiple mediation sessions by the Tribunal – 6 times in total. Each time, she was tasked with taking time and effort to gather the necessary paperwork and evidence for mediation. The frequency of taking urgent leave to attend mediation sessions also jeopardized the husband's employment. Despite the fact the circumstances to the case have not changed, a full Tribunal hearing had to be convened each time before the case could be dismissed. With our proposed amendment, this will no longer be necessary.

The Workgroup also observed hearings for variation orders where the applicant failed to turn up. Respondents had their time wasted and several had used up a significant portion of their annual leave to repeatedly attend hearings.

We therefore propose that the President or a Deputy President to the Tribunal be empowered to dismiss any frivolous or vexatious application, with valid reasons. The President or Deputy will be empowered to do so independently, without the need to convene a full Tribunal sitting.

As an avenue for recourse, the aggrieved party may appeal to the full Tribunal against a decision of the President or the Deputy President. In such an appeal case, we will of course exclude from the panel the member who dismissed the application in the first instance. Applicants who wish to appeal even further may do so with the High Court. However, the High Court can make an order for costs to be awarded against the applicant should they find the appeal wholly unmeritorious. In short, existing safeguards are in place to deter parents from escalating their appeals with no grounds.

We are also proposing another change in the name of administrative expediency. Currently, the President of the Tribunal must be one of three members to form a quorum for a Tribunal hearing. It is proposed that up to four Deputy Presidents be appointed and that Tribunal hearings can be presided over either by the President or Deputy President. These appointments are a new feature we hope to introduce to allow for a more expeditious process at the Tribunal, such that applicants and respondents alike will experience a shorter waiting time before their cases will be resolved.

Following from references made to the role of the Deputy President made earlier in my speech, in summary the Deputy President is

introduced to play three key functions: (1) to preside over Tribunal hearings in the absence of the President, (2) to dismiss frivolous or vexatious claims at the preliminary stage and (3) to endorse agreements reached at conciliation as maintenance orders. The key enhancement under (2) and (3) is that these can now be undertaken without the need to convene a full Tribunal hearing.

Other proposed measures to streamline processes are as follows:

- (a) Currently, a fee of \$10 is charged to parties to obtain a copy of the record proceedings. We propose for the fee to be removed.
- (b) We also propose that the prescribed forms [currently 14 forms in all!] be removed from the Maintenance of Parents Rules. The Tribunal secretariat will streamline the forms and regularly review and update them administratively.
- (c) Lastly, we suggest that “Medical costs” to be included as a category for consideration in addition to shelter, food and clothing, as a component of what constitutes “basic needs” under the Act.

Active Case Management and Public Education

Beyond the legislative amendments proposed in the Bill, we also recognize the importance of follow-through after agreements have been secured between parties. The Commissioner should have a role in monitoring cases after Maintenance Orders have been issued, in particular cases where the children repeatedly default against the Orders.

The Workgroup would like to suggest that MCYS, the Commissioner and The Tribunal devise an effective administrative system for case monitoring. Such a system should help ensure that payments are made on time and if not, that prompt and adequate assistance is given to the parent to enforce the payments. We also ask that MCYS considers resourcing both offices adequately to carry out such an important task. Investing in this aspect will have significant payoffs going forward.

I would like at this stage to make another point separate from the amendments but is worth making. Section 12 of the current Act empowers the Commissioner to make an application on behalf of a parent, or represent applicants before any proceedings or appeals under the Act. Despite this provision, it is possible that some parents would expressly object to have their case pursued under the Act. In such cases, we agree that the Commissioner should and must respect the parent's decision.

However, the consequences of not proceeding with the maintenance application should also be clearly explained to the parent, including not being eligible for other forms of public assistance. This is in line with the rationale that the onus of taking care of one's parents should first and foremost lie with the children if they can afford it, and not the state. The state should only step in to assist when the family is financially in need.

Family togetherness and support is important and should always form the first line of care and support. This is the principle upon which Singapore's social welfare is based – that of personal responsibility, family responsibility and the Many-Helping-Hands approach, with the State coming in when all else fails.

Hopes and challenges

Sir, in this last section of my speech, let me touch on what we have chosen *not* to do, which is to me as important as the changes we made. Technically, a child could choose to disregard the rulings of the Tribunal. The Tribunal alone cannot sentence an individual to a fine or jail. The committee, while giving the policy more teeth in terms of efficient implementation, also realizes that family ties are complex, that circumstances and history can never be fully understood.

This is why we have decided to uphold the conciliatory and non-adversarial spirit of the original law. Deterrent provisions go against this spirit. If the Act carries a jail sentence or a fine, parents may withdraw their application if, as a result of their children's reluctance to pay, these children have to be punished by a jail sentence or a fine.

To improve the payment and the enforcement of Maintenance Orders, we are instead proposing for an effective administrative system to monitor cases to help ensure that payments are made on time, and if not, give prompt and adequate assistance to help parents enforce payments.

Final Remarks

Sir, in closing let me say that we have kept within the spirit of the original law but have attempted small but significant steps towards the care of aged parents.

Our hope is that we can collectively work towards the goal of minimising the number of people who would have to resort to the use of this Act. But for those who do, for whatever unfortunate circumstances, we hope that the amendments can minimise further stress on already strained family ties, and preserve family relationships as far as possible.

We recognise that at the end of the day, the law alone cannot solve society's problems. The amendments will not be able to roll back the increasing pressures that families face. The law is there to complement the larger effort of education that needs to take place. We also benefitted from the National Family Council's recent campaign centering on filial piety.

The effort must begin in our homes where parents model the filial piety and children learn by example. Moral education in schools can but only complement. Yet, school education can still play a role in inculcating these values to our young and I hope that schools will continue to emphasize these values in their curriculum. This is a wish that I hope MOE will consider. The values expounded in the Act should be inculcated from young.

I should add that all various VWOs, community and ethnic groups can play a part. The honourable member for Tanjong Pagar GRC, Mr Sam Tan will elaborate, one group, the Nanyang Confucian Society, has been focussing on promoting Confucius ethics and values which include filial piety. The Society is doing great work and I encourage them to further contribute to the cause of promoting good values especially filial piety by recognising those who practise them. I hope other groups across different races could also consider likewise.

Sir, this is a bill that touches everyone in one way or another. All of us are either a son or daughter and for many, we are also a parent as well. So I hope that we can all learn to love, to care and to forgive both our children and our parents for their shortcomings and past wrongs as we hope they would do the same onto us. That will be the hallmark of a truly resilient family and one which we in Singapore would be proud to have as a priority and if there is such a ranking in the world, strive to be number 1 on this list.

But as for the law itself, my fervent hope is that that the Act will over time, gradually fade away through disuse. Perhaps so few people will find they need to use it, the tribunal is so little exercised, the laws are so rarely applied, that we will look back and ask – “What was that archaic law again?” This day may come, 20, 30 years or later, but I hope that day will come.

Sir, I beg to move.

As at : 21 November 2010