Application of shared parenting in Malaysia: Appraising the Australian experience


Abstract
Internationally, shared parenting has been highlighted and agreed to be the best method of protecting the welfare of the child. The religion of Islam also promotes the concept of shared parenting to ensure that the welfare of the child is well protected. In Malaysia, legislation on child custody emphasises that the welfare of the child should be given paramount consideration but there are no provisions on shared parenting and specific guidelines in its application. An amendment was made to the laws to include a provision on equal parental rights but it does not definitely relate to the principles of shared parenting. The vagueness of the law and the lack of proper guidelines in relation to shared parenting open the door for the courts to render inconsistent decisions. In determining custodial rights, the courts often rely on their own discretion. The absence of specific laws or shared parenting has also caused difficulties for parents in rearing their children. They tend to stress on their conflicts and fight for their rights rather than focus on the welfare of the children. This paper seeks to discuss the current position of shared parenting after marital separation in Malaysia. As Malaysia practices a civil legal system, the paper will also examine the suitability of applying the shared parenting principle in both systems. A brief comparative review will also be made of Australian law and policies, which are more advanced on the subject of shared parenting.

Author keywords
Australian law, Child custody, Malaysia law, Shared parenting, Welfare of the child

References