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Supporting Families in Separation and Divorce: An International Review of Legislation, Policy, and Best Practices

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Abstract

Background

Multiple studies have shown that the separation and divorce processes of parents, as well as interparental conflicts, may have negative effects on the emotional, social and health condition and functioning of all family members, particularly children. Therefore, recent decades have seen growing awareness of the state's duty to intervene in various stages of the process and act to reduce parental conflicts, promote the wellbeing of all family members, and improve their relations.

Objective

The overarching objective of this review is to provide information collected in various Western countries in order to optimize the development of a policy for treating and helping Israeli families engaged in separation and divorce processes. The topics of this review include legislation and treatment policies related to these families, as well as families with parental conflicts more generally; the types of interventions provided to these families; tailored and accessible interventions for families from diverse demographic groups; case studies of integrative service models for these families; barriers and challenges and best practices in serving them.

Method

In-depth review of the professional and academic literatures from several Western countries – Australia, Canada, the Netherlands, New Zealand, Norway, the UK, and the US – covering the aspects of policy, legislation, integrative models, programs and practices in helping families engaged in separation and divorce. The information was gathered from January-September 2023, using the ProQuest and Google Scholar search engines. In addition, ten interviews were conducted with thirteen researchers, professionals and directors of dedicated services for families in separation and divorce from these countries (excluding New Zealand).

Findings

- **Legislation and treatment of families experiencing separation and divorce and/or parental conflict:** In recent decades, the Western approach to child custody and to defining “the child's best interest” has changed. The current consensus is that it is in the child’s best interest to have both parents involved in their life. Accordingly, the main trend in Western countries is to try to resolve conflicts by consensus between the

parents, without recourse to judicial proceedings, both in order to avoid the negative effects of the adversarial judicial process, and in order to reduce the courts' workload in handling complex cases. In all countries reviewed, the law requires trying to resolve conflicts by consensus (particularly through mediation) prior to initiating judicial proceedings. These countries have also opened state-funded centers providing consulting services, educational and therapeutic programs for parents, mediation processes, etc.

- **Models and practices for helping families experiencing separation and divorce:** Both the literature and the interviews indicated that in interventions in the various stages of separation and divorce, information is gathered about the families, their needs are identified, the families are treated, and efforts are made to prevent the parental conflict from escalating. Additionally, unique needs specific to each stage were identified. *At the beginning of the separation process*, the following elements are common: providing information, consulting and guidance, and assessing the family's needs in order to direct each family to the most suitable course of intervention. *At the mediation or litigation stage*, the interventions are focused on attempts to reconcile the parents, encourage them to cooperate, and provide them with guidance in group educational programs. *After an agreement is reached by mediation or litigation*, the intensity of the interventions is reduced considerably, and group programs are offered to separated or divorced parents, coupled with programs for reinforcing the parent-child relations. Studies conducted to evaluate the various interventions have found that they are effective throughout the divorce process in achieving desirable outcomes for both the parents and children, as well as for the legal system and supportive services.
- **Adapted and accessible interventions:** The services and interventions provided to families experiencing separation and divorce are not always suitable for unique groups such as children, men, ethnic minorities, LGBTQs, and families where the parents are engaged in high intensity conflicts. The practices reviewed indicate that some countries are proactive in adjusting their services and intervention programs to these populations, but even they appear to be in the early stages of the process. Groups for which interventions have been developed more systematically, informed by evidence-based practices, include children and families with intense parental conflicts. However, even for these groups, services are few and relatively inaccessible.
- **Case studies:** The four countries for which case studies were conducted – Australia, Canada, the UK, and the US – have recognized the unique needs of families engaged in separation and divorce and the need for a comprehensive national program for them. All national programs reviewed have been accompanied by evaluation studies, which highlight their contribution to reduced litigation, improved parent-child relations, consensual agreements, and minimizing of the intensity of the parental conflict and its negative impact on all family members, particularly children. Moreover, most programs have added to the knowledge and skills of professionals specializing in treating families in separation and divorce.

- **Barriers and challenges in providing services to families in separation and divorce:** Three main barriers and challenges were found: (1) Insufficient attention to families in the early stages of the process, resulting in unadjusted treatment of families and exacerbated conflict intensity; (2) Lack of adaptation and low accessibility of interventions for unique populations such as minorities, men and children; (3) Lack of resources and investment in broad-based comprehensive programs. These three barriers and challenges are significant in Israel as well.

Recommendations

- **Formulate a comprehensive social policy for families in separation and divorce** and offer holistic and multidisciplinary services to these families, both within and outside the family courts.
- **Implement best practices** arising from the literature and interviews, as follows: (1) Devote most efforts to helping families in separation and divorce as early in the process as possible; (2) Promote the parents' access to reliable legal information and identify the families' needs in order to identify the most appropriate course of intervention; (3) Develop a network of interdisciplinary legal, financial and therapeutic services; (4) Offer programs for improving parental communication; (5) Provide educational programs for parents and have the courts refer parents to them, when appropriate; (6) Provide follow-up services and programs for reinforcing family relations after a divorce agreement or legal process; and (7) Develop adapted and accessible interventions for unique populations.