

Lady Deech: A Plague on Both our Houses

There is nothing like a sound bite to get the attention of a nation, but when the laceration is filled with rabid logic, a shot of realism is sometimes required to heal the wound.

Lady Deech's dogged stance on divorce law has impacted the legal world and sent an unpleasant message ricocheting through the system: change legislation on divorce to reflect the modern view or face the consequences of an ailing system.

The trouble with the way Lady Deech offers her perspective is that it echoes the rather dictatorial culture of the family justice system as it stands. There is a definite air of finality to her expression and an implicit expectation that a nation should follow her lead not only on how men and women should live their lives (and she is more concerned about pushing women out of the home than placing men in it) but also on how they should be expected to view marriage.

I can sympathise somewhat with Lady Deech. As a Taurean myself (we even happen to share the same birthday) we have a tendency to be forthright, to assert our views and to anticipate a certain amount of welcome agreement. Ultimately, we bulls like peace. But, the trouble with bulls in china shops is that we risk breaking the already delicate fabric of our family courts by being too strident. If I were to accuse Lady Deech of anything, it would be this.

The family unit is a complex entity. People enter marriage for many different reasons and to presume that the majority of women enter marriages with wealthy men so they can be 'kept' is a heavy handed overstatement and does not reflect the reality of the average marriage. Whilst I agree with Lady Deech that women who have only been married a short time and who have no children should not be entitled to half their husband's assets, once again, these types of cases are few and far between and furthermore, the law already takes these discrepancies into account and judges have been tapering financial judgements to reflect length and type of marriage for many years. The notion that the courts are not doing this is an oversight and perhaps a symptom of not having dealt with ordinary divorce cases and only cases where high net worth individuals are involved. It may seem to those practitioners who work at that income bracket that these clients are in the majority, but the reality is quite different.

Lady Deech also criticises judges for not implementing the 'clean break' scenario enough, yet when children are involved this is hardly prudent or practical. The notion also that maintenance should be rehabilitative, quite frankly, could make mothers feel as if they have committed some heinous crime against feminists everywhere by choosing to have a family and dedicating themselves to their children full time. It is both saddening and shocking to see a woman devalue one of the oldest and most beautiful labours of love known to man. Good mothering, quite simply, is priceless but this does not mean that women should be supported by blank cheques and at the expense of working men. A balance needs to be achieved and whereas Lady Deech feels this balance lies in changing the perception of a nation and forcing it to adhere to one person's notion of propriety, I would modestly suggest that we need to focus on infusing quality and competence into a system that clearly has not been mothered enough and allow people to make choices for themselves.

An interesting point made by Lady Deech refers to her observation that divorce proceedings have become inquisitorial solely with a view to ascertaining the husband's financial position resulting in ritual humiliation of male spouses. On that point, I would agree that the law is invasive, but I would implore Lady Deech to take a closer look: it is not only husbands who feel that the system is humiliating and degrading. Talk to any number of women who have gone through the process and they will tell you the same thing over and over again: as a woman, you can find yourself exposed to the most callous treatment whether in relation to contact or issues surrounding maintenance.

There are pressure groups aplenty for both fathers and mothers. I often assist both genders and find that the complaints about the system are startlingly similar and echo my own experiences in my divorce. The seminal issue here is not one of equality or gender – it is more straightforward than even this. The heart of the matter lies in the family justice system's lack of heart, its inherent misunderstanding of what a healthy family unit looks like and its contribution in destroying these delicate structures with its presumptuous precedents and its loose lipped laws.

It is clear that divorce is being hailed as the newest member of the axis of evil, but again, this assumption is made with only half a glance at the context in which we view unhappy children. There is never a reason to visit a complete family unit to see whether or not this superficially idyllic structure itself harbours unhappiness and yet we still roll full steam ahead with the assumption that the only unhappy children are found in 'broken' homes.

This awkward and ill thought out view neglects one very important aspect about divorced families. They are, as the term suggests, still families. These units may not look like the conventional model, but plenty of children exist quite happily within them, as long as there is no conflict present. These units have simply metamorphosed into something else. The real killer is conflict and the family courts' impact on vulnerable families often ensure that what should be only fleeting hostility, turns into a lifetime of resentment, not because of maintenance awards or mothers not going out to work, but because the adversarial process incites and implicitly condones conflict, which continues to burn long after the fire has died down, encouraged by the embers of what could be described as legal lighter fluid.

I would not wish to question any family's decision to separate; we live in an enlightened era where we understand the importance of acknowledging our mistakes rather than hobbling along inside units that have no meaning for those who find that love is lost. It would be far more sensible for us to focus on infusing our education system with noble values and humanitarian principles than to switch up policy and force families to live prescribed lifestyles. Lady Deech's observations to my mind are short sighted and idiosyncratic to her way of life, perhaps, but in the public arena her scathing attack on women has done nothing but fan the flames of prejudice amongst men and women everywhere. In a system where mothers and fathers are constantly being pitted against one another, Lady Deech's outburst will ensure that any attempts by neutral pressure groups to allow the two 'sides' to collaborate will take a step back. For the movement seeking progressive and peaceful policies that benefit families all over the country, it has been a dark week.

On the surface, Lady Deech's sentiments appear to be reasonable, rational and even egalitarian, but there is just one problem with them: Lady Deech has failed to acknowledge that the modern view is one of diversity and not uniformity. In other words, women and men are interchanging roles with some preferring a traditional approach to marriage and others working towards role sharing and

swapping. 'Modern' no longer means neo-feminist, metro-sexual heaven. As a society, we are way past that. 'Modern' now means whatever you want a healthy family unit to look like – not whatever Simon says – or in this case, Lady Deech.

23rd September, 2009