

Minutes of the sixth meeting of the Family Law Subcommittee of the Legislative Council (provisional translation)

On August 31, 2021, the sixth meeting of the Family Law Subcommittee of the Legislative Council was held at the Ministry of Justice (in person and online). Nearly all the members and non-voting members attended the meeting. The Chairman, Prof. OMURA Atsushi, presided over the meeting.

Following the fifth meeting, the Subcommittee examined and deliberated the revision of the system for visitation or other contact with a child based on the meeting materials. The sixth meeting covered: (i) measures to promote and secure agreement on visitation; (ii) legal provisions related to visitation agreements; and (iii) rules on the judicial proceedings for visitation. A wide range of opinions were exchanged by the members.

During the discussions, the practices of mediation and adjudication in the family courts concerning visitation were explained, and it was suggested that a system should be designed to reflect a child's views and opinions throughout the process of making an agreement for visitation, including the negotiations, the court proceedings, and the implementation of the agreement, and that concerns over domestic violence should be taken into consideration. Also, opinions were expressed for and against compulsory execution of visitation and whether or not rules to enable direct compulsory execution should be established.

Subsequently, and based on the meeting materials, the Subcommittee deliberated the involvement of parents in decision-making on matters related to child rearing after divorce. The members addressed this issue from both substantive and procedural perspectives. Some stated that since the Civil Code stipulates that both parents should be involved in certain matters, such as consenting to a special adoption, even after divorce, it would be beneficial to consider this issue from the viewpoint of the appropriateness of expanding the scope of application of these provisions, and others stated that it should be considered from a broader perspective, including the social welfare system, such as support for school attendance. Some members of the Subcommittee also pointed out that concepts, such as parental authority, should be reconsidered in order to clarify the relationship between the involvement of parents in decision-making on children and the concept of parental authority or right of custody over children.

For its next meeting, it was decided that the Subcommittee would examine the issues on the reflection of the child's views and opinions on the decision-making process for child rearing, as well as the remaining issues in the meeting materials.

※ These minutes are the responsibility of the Secretariat of the Committee, which has provided this summary of the outcome of the meeting as a preliminary report in English.