Family Law

Everything you need to know about your family’s legal rights

WITH ADVOCATE JOHN CHIGIIT

CONJUGAL RIGHTS IN PRISON

A BOOST TO FAMILY UNIT

In Canada, all inmates except those on disciplinary restrictions or at risk of family violence are allowed “private family visits” of up to 72 hours once every two months. In Australia, conjugal visits are allowed only in the Australian Capital Territory and Northern Territory. In Brazil, male prisoners can have conjugal visits for both heterosexual and homosexual relationships while women’s conjugal visits are tightly regulated, if granted at all. In Ireland, the Supreme Court in denying Marie and Niall Murray, married couple, ruled for murder, an appeal for conjugal rights ruled that the Constitutional right to beget children within marriage was suspended while a spouse was lawfully imprisoned.

New Mexico, New York and Washington. Conjugal visits are allowed in states if a prisoner meets set requirements. These include a background check of the inmate and that the prisoner not be on parole. Both the visitor and inmate are searched before and after the visit to ensure the visitor does not smuggle any items in or out of the facility.

Article 45(1) of the new Constitution states that the family shall enjoy the recognition and protection of the state. It is therefore the right step by the government to allow married prisoners to have conjugal visits. This helps in maintaining the physical and emotional bond between a couple. Denial of conjugal rights is recognised by Counts in Kenya as an element of cruelty which is a ground for divorce. The government will therefore do great service to the marriage institution in allowing for conjugal visits for married prisoners.

Under Article 51(1) of the new Constitution, prisoners retain all the rights and fundamental freedoms in the Bill of Rights except where they are clearly incompatible with imprisonment. The right to have a family and all its attendant requirements is not incompatible with imprisonment if conducted under clearly laid down rules which ensure the safety of both the prisoner and the visitor and that the visit will not be taken advantage of to commit illegal activities. The current lack of free condoms also savours the granting of conjugal visits since the visitors are in a much better position to purchase their needs. The supply which will reduce the spread of HIV. Conjugal visits will also reduce incidences of same-sex relations in prisons, many of which arise out of sexual frustration.

With adequate regulation, conjugal visits may be used as a carrot to ensure good behaviour for prisoners, reduction of spread of HIV and other STIs and together with the recently introduced Prison Open Days be used to transform prisons into family-friendly institutions and preserve the family bond.

It is only to be hoped that once introduced, prisoners will respect this facility with the knowledge that it can be withdrawn if needed.

Does anger management help?

More people than ever are seeking therapy for anger management. But does it help?

Mary knew she had a problem when she found herself screaming at her university professor. He had caught her having an aggressive argument with a woman on her course, and after several complaints from other students, spoke to her about it.

"All my life I've been a temper," she admits. "I got into fights at school and university, and would lose control over little things." When the tutor said Mary would have to seek professional help or lose the course, she went to see the university counsellor. It was a turning point for Mary, who had arrived in the UK at the age of 10 while struggling to cope with the death of her sister.

"I changed my life," she says. "Suddenly I was speaking about things I had never talked about before. I was a different person." That’s when her mother sent her back to school that day. We never spoke about it again. Now, if I get angry, I can talk about it.

Many are not so fortunate. "We suspect that anger in our society is reaching pandemic levels, but there’s very little help available," says Mike Fisher, director of the British Association of Anger Management. In particular, there has been a big increase in calls from people in relationships with psychopaths - a person who is addicted to the intensity of anger and the adrenaline released. An alcoholic has about 17 people who suffer from their behaviour.

Research shows that eight per cent of our callers are people who are in a relationship with a psychopath. They are desperate, and want to know how to convince their partner that they have a problem.

A recent BAAM study found that 84% of the 7,756 respondents had experienced verbal and emotional abuse in the last 24 months. "Twice as many women responded than men, with 36% more women appearing to be abused," says Fisher. "But both sexes report a disturbingly high percentage of abuses." Of all of which doesn’t bode well for the nation’s health. "Anger can be useful, but out of control it can lead to family breakdown and health problems," says Kathryn Hill from the Mental Health Foundation. In its 2003 report Bullying Point showed 28% of adults were worried about how angry they sometimes felt and 34% had a friend or relative with problems dealing with anger.

"Domestic violence is linked with heart disease, stroke, depression, self-harm, substance abuse, colds and flu, higher stress levels and negative relationships, such as parental abuse," says Rachel Lauter, associate professor of medicine at the Yale University School of medicine, agrees. "It’s well established that anger can precipitate a heart attack and arrhythmias (heart irregularities) in people already at risk, although the exact pathways are not understood."

Lauter conducted two studies in the first she gave dextrose to patients with defibrillators so they could rank their emotions whenever they had a surprise. Anger was much more common in the period preceding the arrhythmias than in the control group.

Then she asked them to recall rage-filled moments, measuring the hearts electrical activity. "We followed these people for several years and found they were more likely to have arrhythmias later. We need to take negative emotions seriously as a health risk."

But many experts say this is still not happening. "You can’t go to your GP and say ‘I’m angry and need help’. It’s not until people come in themselves that one is referred for anger management," says Hill. Other experts say we need to learn how to express anger appropriately.

"It’s about expressing yourself effectively and calmly," says Philip Hodson, psychologist and fellow of the British Association for Counselling and Psychotherapy.

Common strategies include noting your arousal signs (headaches, foot-tapping, tension), and then counting to 10 and slowing the breath, and working out what you are commonly triggered on in reactions of rage and thinking about something else. Other tips include avoiding alcohol and drugs, practicing relaxation techniques and getting daily exercise. "Exercise dissipates difficult emotion," says Hodson.

And dealing with some anger is rage?

"Don’t argue, listen, and then if you have finished venting, say calmly ‘Is there anything else? Then you can talk. This of course, excludes dealing with someone who is physically or mentally abusing you. "If you feel you may be harmed, you leave and seek professional help."

CAROLE KIANGI’S COLUMN RESUBMIT NEXT WEEK

RISKY: It is well established that anger can precipitate a heart attack.