



**Submission to the
Queensland Child Protection Commission of Inquiry
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Introduction

The Australian Christian Lobby (ACL) welcomes this opportunity to make a submission to the Queensland Child Protection Commission of Inquiry.

ACL has a strong interest in advocating for the wellbeing of children. A key part of ACL's business is lobbying on policies which affect families and children, and ACL has a long history of lobbying for policies at both state and federal level which promote the best interests of the child.

The principle of "best interests of the child" is fundamental in family law, both in Australia and internationally. Article 3 of the UN Convention on the Rights of the Child states:

*In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*¹

The Australian *Family Law Act 1975* also emphasises this principle.² In situations involving children, the best interests of the child is considered to be "**the paramount consideration**".³

This is also enounced in the Queensland *Child Protection Act* in section 5A,⁴ following the Crime and Misconduct Commission's 2004 report, which recommended such a section be inserted.⁵

ACL believes that government has a responsibility to protect society's most vulnerable, including children. A just society will value its children, protect them, maintain a family friendly society, and encourage laws which facilitate a safe environment for children. Where adults fail and children are harmed, laws will provide support and protection for these children to the greatest possible extent.

In September 2011, an ACL-commissioned report into the wellbeing of children in Australia was published by the University of Sydney. Produced by prominent family law academic Professor Patrick Parkinson, *For Kids' Sake*⁶ examined the state of children's wellbeing and confirmed the worsening situation of Australia's children over the past 12 years in spite of increasing State and Commonwealth funding of programmes designed to address the child protection crisis. It made a number of important recommendations which, if implemented, could address the root causes of this and create communities which support healthy families, and thus healthy children.

For Kids' Sake will form a major part of this submission's discussion and recommendations, and is attached for the Committee's consideration.

A key issue raised in *For Kids' Sake*, and the focus of this submission, is the importance of healthy marriages and couple relationships. Prevention must be the focus of child protection policy, and the most important factor in preventing poor child wellbeing is the strengthening of relationships before

¹Article 3(1), *Convention on the Rights of the Child*.

² E.g., section 61DA requires the court to consider the best interests of the child when deciding whether to make a parenting order.

³ See sections 60CA, 65AA, 67V, 67L, *Family Law Act 1975*. Emphasis added.

⁴ Section 5A, *Child Protection Act 1999*.

⁵ CMC (2004), *Protecting Children*, Recommendation 7.45, p 221.

⁶ Professor Patrick Parkinson (2011), *For Kids' Sake: Repairing the Social Environment for Australian Children and Young People*, University of Sydney, <http://www.acl.org.au/wp-content/uploads/2011/09/FKS-ResearchReport11.pdf>.

a couple has children. Research shows strongly that children fare best when they are raised in families headed by their biological parents who are in stable, committed marriages.

The most important aspect of protecting the best interests of the child must be focusing on encouraging healthy couple relationships, especially marriage, which creates a safe environment for children.

This submission will argue that government needs to resist political correctness which prevents a public policy focus on fostering marriage.

The worsening crisis of child wellbeing

Despite major inquiries into child wellbeing by Forde in 1999 and the Crime and Misconduct Commission in 2004, the crisis in child abuse and neglect has worsened. The increase in poor outcomes for children is discussed below. It is clear that the implementation of the recommendations of these reports have not improved the situation for children. Continuation of the *status quo* is clearly unacceptable.

It is a time a different approach is taken. This must emphasise the need for prevention, as prevention is a far preferable option. Of all the recommendations of past inquiries, not enough emphasis has been placed on fostering healthy marriages.

Issues related to the wellbeing of children are never far from the news. In August, reporting on this inquiry, *The Australian* ran a story that almost a quarter of Queensland's children "will be known to child safety authorities by the end of the year".⁷ The number of suspected child abuse notifications is a shocking 112,000 in Queensland, more than triple the number eight years ago, and 7,123 court orders were made relating to child safety last year alone.⁸ The number of children in care in the state is over 8,000. In comparison, there are about 5,000 adult prisoners in Queensland.

Another story in *The Australian* reported an increasing number of children in out-of-home care, nearly 38,000 by June in 2011 throughout the country, again much larger than an adult prisoner population of 29,000.⁹ According to the article, 65 per cent of the \$2.8 billion Australia spends on child protection services is funding for out-of-home care. These alarming figures reflect a serious problem for Australian children and families, and the problem is worsening.

While the problem is widely known and has been reported in the national media, a deeper look shows that the surface has barely been scratched. Professor Parkinson's research reveals a range of serious problems faced by children today that are largely overlooked. While Australia ranks very highly on some measures, such as education, physical and economic wellbeing, low death rates

⁷ Petrina Berry (August 13, 2012), 'One in four Qld kids 'will be reported'', *AAP*, <http://www.theaustralian.com.au/news/breaking-news/child-protection-inquiry-resumes-in-qld/story-fn3dxiwe-1226448821688>.

⁸ Michael Madigan (August 14, 2012), 'Children's residential costs revealed as inquiry opens', *The Courier-Mail*, <http://www.couriermail.com.au/news/queensland/childrens-residential-costs-revealed-as-inquiry-opens/story-e6freoof-1226449552089>.

⁹ Rosanne Barrett (August 18, 2012), 'Increasing numbers of children are staying in care for longer', *The Australian*, <http://www.theaustralian.com.au/news/nation/increasing-numbers-of-children-are-staying-in-care-for-longer/story-e6frg6nf-1226452912499>.

among infants and children, and other similar measures of a nation's affluence or overall wellbeing, Parkinson says that these positive trends can "disguise increasingly serious problems" for many children, with "the situation... deteriorating at an extraordinarily rapid pace".¹⁰

Professor Parkinson notes the increasing rates of notifications of childhood abuse and neglect.¹¹ Changes in reporting requirements make it difficult to compare from year to year, but a steady increase over 12 years from 103,302 notifications in 1998-99 to nearly 340,000 in 2008-09 reflect the growing problem.¹² 27% of children in the state are "known to Community Services", according to a report of Community Services in NSW.¹³

The number of children in out-of-home care has also increased rapidly. In Queensland, the rate of children in out-of-home care is 6.8 per 1,000, a steady increase over the years since 1997, in which the rate was only 2.5 per 1,000. The same trend is seen in every state and territory, and is as high as 9.9 in NSW.

But the problems go beyond cases of abuse and children being removed from their homes. Chapter 2 of the *For Kids' Sake* report is titled "Adolescent Mental Health and Risky Behaviour".¹⁴ The chapter reveals a shocking rate of mental and psychological problems for young people.

For example, 26 per cent of people between 16 and 24 have a mental disorder, and 40 per cent have experienced a mental disorder at some point in their lives.¹⁵ A further 24 per cent who have never experienced a mental disorder are experiencing "moderate to severe psychological distress".¹⁶ This is a shocking 1 in 2 children who are currently suffering from some sort of mental or psychological problem.

Unsurprisingly, rates of self-harm have increased along with these mental and psychological problems. There was a 66 per cent increase in hospitalisation due to self-harm for boys and girls between 12 and 14 in the ten years from 1996 to 2006.¹⁷ The same period saw a 76 per cent increase for 15-17 year olds.¹⁸ The rate is nearly four times higher for girls than for boys.¹⁹

The Report cites data from Queensland showing an increase in suicide among 15-17 year olds in that state, from 3.7 per 100,000 in 2004 to more than double that – 8.4 per 100,000 – in 2007.²⁰

Clearly there are serious problems with mental illness and psychological problems which are rapidly increasing alongside cases of abuse and out-of-home care. There are also increasing rates of risky behaviour among children. Parkinson reports alarming rates of binge drinking among youth,²¹

¹⁰ Parkinson (2011), *For Kids' Sake*, p 16.

¹¹ Parkinson (2011), *For Kids' Sake*, pp 17-21.

¹² Parkinson (2011), *For Kids' Sake*, p 17.

¹³ Parkinson (2011), *For Kids' Sake*, p 18.

¹⁴ Parkinson (2011), *For Kids' Sake*, pp 28-44.

¹⁵ Parkinson (2011), *For Kids' Sake*, p 28.

¹⁶ Parkinson (2011), *For Kids' Sake*, p 30.

¹⁷ Parkinson (2011), *For Kids' Sake*, p 30.

¹⁸ Parkinson (2011), *For Kids' Sake*, pp 31-32.

¹⁹ Parkinson (2011), *For Kids' Sake*, pp 31-32.

²⁰ Parkinson (2011), *For Kids' Sake*, p 33.

²¹ Parkinson (2011), *For Kids' Sake*, p 34.

juvenile offending,²² and risky sexual behaviour.²³ Unwanted sex has increased in recent years,²⁴ as have sexually transmitted infections²⁵ and teenage pregnancy.²⁶

Submissions to this inquiry

Submissions and statements from witnesses in this inquiry have identified particular problems with the present system, beyond the high number of children affected. One of the issues with the system is its adversarial nature. Children are often removed from violent family situations for the sake of their protection. However, the threat, real or perceived, of having children removed by the authorities does not encourage families to seek assistance when they are in need.

Children may also be reluctant to seek support from authorities if they fear being removed from their parent when that is not what is required. Children suffering abuse want a relationship to be restored rather than broken.

The removal of children from their homes must be a last resort, and parents and children must be encouraged to seek help without fear of being reported or having their families torn apart.

The system also has a tendency to focus on more “visible” forms of harm such as physical or sexual abuse. Emotional abuse and neglect are more difficult to identify but may be more prevalent.

One issue that arises once children are taken into out-of-home care is the transition problems they face when they turn 18 and leave custody. Some young people, including those with intellectual or other disabilities, are discharged when they become legal adults with no transition plan in place to help them adjust to caring for themselves. Cases were cited in some of the submissions noting this widespread problem.

A report by the CREATE Foundation, Australia’s peak body representing children in out-of-home care,²⁷ emphasises this problem, focusing on the need for young people to have leaving plans. Some of the more alarming figures from the report include:

- 50 per cent of young people in care had to leave their placement on turning 18;
- 40 per cent of those young people didn’t know where they were going to live on leaving;
- 34.7 per cent overall had “experienced periods of homelessness in their first year of independence for an average of 31 days;
- Over half (53.7 per cent) were wholly depending on Centrelink payments;
- 28.5 per cent were unemployed.²⁸

Support must be given to help young people, now “adults” according to the law, to adjust to society. Training and counselling should be provided to help enable young people to become independent from state care, and assistance given until then.

²² Parkinson (2011), *For Kids’ Sake*, p 39.

²³ Parkinson (2011), *For Kids’ Sake*, pp 35-38.

²⁴ Parkinson (2011), *For Kids’ Sake*, p 36.

²⁵ Parkinson (2011), *For Kids’ Sake*, pp 35-36.

²⁶ Parkinson (2011), *For Kids’ Sake*, pp 37-38.

²⁷ Create Foundation, ‘About Us’, <http://www.create.org.au/about-us>.

²⁸ CREATE Foundation (May 2011), *Transitioning from Care in Australia: An Evaluation of CREATE’s What’s the Plan? Campaign*, http://www.create.org.au/files/file/CREATE_ReportCard2011webR211.pdf, p 12.

The system should also improve relationships between case workers and families. Parents and children should be given the opportunity to build trust with case workers who are dedicated to improving relationships between parents and children.

Fostering

Part of this inquiry is into the success of the CMC report into foster care abuse. One of the CMC's recommendations is that the Department of Child Safety (DCS) "evaluate research into the effect of reunification or permanency planning on children".²⁹ Their reason for this recommendation is:

*Currently there is limited Australian research on the effects of reunification or permanency planning on children. Although there now appears to be growing interest in permanency planning in Queensland, the concerns about including an adoption option in permanency planning legislation suggests that any change need to be evidence-based and to consider the specific concerns of the Indigenous community.*³⁰

They state that "any decisions about a child should be based on the best interests of the child".³¹ This is consistent with the *Child Protection Act 1999*, which, following the CMC report, now contains section 5A, which states that the "main principle for administering" the Act is "that the safety, wellbeing and best interests of a child are paramount".³²

The For Kids' Sake Report

It is clear that the current system is, in the words of UQ Law Professor Heather Douglas, an "absolutely unsustainable model".³³ Although there is no clear or easy solution, it is necessary to consider alternative approaches, especially those that focus on prevention and strengthening marriage. Although in the current social climate there is a reluctance to speak in favour of marriage as a better alternative for children, as opposed to cohabitation, single parenthood, or same-sex parenthood, healthy marriages are better for children and it is essential that this truth be acknowledged.

Protecting the wellbeing of children must involve building strong marriages and families, but it involves more than that as well. All families, regardless of how much difficulty they face, and regardless of how "intact" or "broken down" they are or of their financial wellbeing, should be able to seek support within their community. Building strong communities which foster this kind of support for struggling families is equally important in protecting the wellbeing of children as is strengthening families.

The *For Kids' Sake* report was published in September 2011. Its author, Professor Patrick Parkinson, is one of the country's leading experts on family law, and also brings years of experience as a family law practitioner. His report documents alarming figures about the state of children's wellbeing in

²⁹ CMC (2004), *Protecting Children*, Recommendation 7.44, p 219.

³⁰ CMC (2004), *Protecting Children*, p 219.

³¹ CMC (2004), *Protecting Children*, p 219.

³² Section 5A, *Child Protection Act 1999*.

³³ Rosanne Barrett (August 18, 2012), 'Increasing numbers of children are staying in care for longer', *The Australian*.

Australia, examines some of the causes, discusses the need to strengthen families and whole communities as a way of addressing the root of the problem, and makes several recommendations.

Regarding the report, this submission looks first at Parkinson's discussion of family education programmes, then at Community Trusts and the role of government, and finally at the importance of marriage for protecting children's wellbeing.

Family education programmes

Parkinson discusses at length the need for family education programs. He says:

*One great need is to provide education programs about family life which will help address the knowledge deficits across the community through lack of healthy modelling in people's families of origin...*³⁴

He proposes a "major new initiative in providing community-based education programs for couple relationships and parent-child relationships"³⁵ and recommends employing trained volunteers along with some professionals.

Governments at both state and federal level "need only play a very limited role in facilitating these programs", with its two main roles being grants to counselling organisations for their development and advertising and promoting the programmes to the community.³⁶

Although education for couples may go some way to help reduce family conflict, when family conflict does occur there is still a need for support at this later stage. In Chapter 7, titled "A Community of Neighbours",³⁷ Professor Parkinson argues that:

*There is also a need for programs that will support parents through tough times, and help parental resilience... Family support programs are relatively low-cost services that help reduce the risk of child abuse and neglect. They also fulfil an important role in reducing social isolation and advancing social inclusion.*³⁸

Parkinson emphasises the importance of volunteers in these programmes, adding that there would be "benefits not only for recipients of services, but in building cohesive and supportive communities."³⁹

Parkinson stresses throughout these chapters the importance of volunteers, citing Kids Hope Australia, a World Vision programme which partners local churches and primary schools. Churches provide volunteer mentors to vulnerable primary school children who spend time weekly with the children one-on-one. Parkinson gives other examples of such programmes and stresses the importance of becoming a "community of neighbours", and offered the example of Windale, New South Wales, as a community which benefited immensely from programs including parenting classes and other programmes which work with young children and isolated mothers. Windale went from

³⁴ Parkinson (2011), *For Kids' Sake*, p 11.

³⁵ Parkinson (2011), *For Kids' Sake*, p 11.

³⁶ Parkinson (2011), *For Kids' Sake*, p 11.

³⁷ Parkinson (2011), *For Kids' Sake*, Chapter 7, pp 88-100.

³⁸ Parkinson (2011), *For Kids' Sake*, p 12.

³⁹ Parkinson (2011), *For Kids' Sake*, p 90.

being in the worst one per cent of suburbs in New South Wales to the top 25 per cent in only four years, and “shows what can be achieved with a sustained and co-ordinated effort at community renewal”.⁴⁰

Role of government and Community Trusts

Parkinson says we need a “partnership between government, professional organisations and local communities to support families and children.” As the Council of Australian Governments has said, “Families, communities, governments, business and services all have a role. And we need to work together.”⁴¹

Part of Parkinson’s strategy involves decreasing the reliance on governments, as when funding for projects like those in Windale ceases, often the advances made are undone. He suggests that people are willing to support local charities if the right structures are in place. The role for government, then, is to install the structures which will encourage communities to rely less on government funding.⁴²

To this end, Parkinson recommends the establishment of Community Trusts in as many Local Government Areas as possible, allowing for tax-deductible donations from within the community to support non-profits and facilitate programmes such as those discussed. They would fund education, counselling and support programs to build local communities which are supportive of the wellbeing of children.⁴³ He recommends that they are independent from but work cooperatively with local Councils.

In chapter 8, Parkinson recommends that governments need to govern “with a light touch”. He argued that this is consistent with the Federal Government’s reform agenda in establishing the ACNC – reducing the regulatory burden faced by NFPs. It would be likewise important to reduce the regulatory burden of the Trusts and community programmes operating to address children’s wellbeing in local communities.⁴⁴

Although Parkinson recommends decreasing the reliance of communities and families on government, there is a vital role for government to invest in strengthening families. As Parkinson states,

*It is important therefore, that governments and in particular the Federal Government, invest in building community capacity to strengthen family relationships and to support vulnerable families.*⁴⁵

Healthy marriages and strong families

This emphasis on the importance of strong family relationships is a common thread throughout the *For Kids’ Sake* report. Strong family relationships have at their foundation strong couple

⁴⁰ Parkinson (2011), *For Kids’ Sake*, p 92.

⁴¹ Parkinson (2011), *For Kids’ Sake*, p 75.

⁴² Parkinson (2011), *For Kids’ Sake*, p 92.

⁴³ Parkinson (2011), *For Kids’ Sake*, pp 93-98.

⁴⁴ Parkinson (2011), *For Kids’ Sake*, p 101.

⁴⁵ Parkinson (2011), *For Kids’ Sake*, p 75.

relationships, and marriages are the strongest couple relationships. As discussed below, cohabitation outside of marriage does not result in the same kind of strong relationship or positive outcomes for children.

In Chapter 4 of the report,⁴⁶ Professor Parkinson links the growth in the “fragility of Australian families” – including divorce, family breakdown, children being born to unmarried couples, and single parenthood (and single motherhood in particular) – to the poor wellbeing of children. This comes after a lengthy discussion in Chapter 3⁴⁷ about the effects of parental separation on children. Family conflict, geographical distance between children and parents, new male partners of mothers, and the stresses of single parenthood all contribute to poor wellbeing outcomes.

Parkinson cites research which establishes the importance of “married, two-parent families”⁴⁸ and says that “the overwhelming evidence from research is that children do best in two-parent married families”.⁴⁹ He says further:

*children do best of all growing up with two happily married biological parents, and so the focus in terms of children’s wellbeing needs to be **not only on preventing family breakdown but on promoting healthier, safer and less conflicted relationships among parents.***⁵⁰

He cites evidence from Professor Susan Brown, who states that

*Children residing in **two-biological-parent married families** tend to enjoy better outcomes than do their counterparts raised in other family forms... Children living with two biological married parents experience better educational, social, cognitive, and behavioral outcomes than do other children, on average.*⁵¹

Further, he cites Professor Paul Amato, who said in 2010:

*Research clearly demonstrates that children growing up with **two continuously married parents** are less likely than other children to experience a wide range of cognitive, emotional, and social problems, not only during childhood, but also in adulthood. Although it is not possible to demonstrate that family structure is the cause of these differences, studies that have used a variety of sophisticated statistical methods, including controls for genetic factors, suggest that this is the case.*⁵²

This is backed up by other research. Anderson Moore, Jekielek, and Emig, in a study conducted for the American research centre Child Trends, agree that “[r]esearch findings linking family structure and parents’ marital status with children’s well-being are very consistent”.⁵³ They further state:

⁴⁶ Parkinson (2011), *For Kids’ Sake*, Ch 4: Australia’s Fragile Families, pp 62-68.

⁴⁷ Parkinson (2011), *For Kids’ Sake*, Ch 3: Family Stability and Children’s Wellbeing, pp 45-61.

⁴⁸ Parkinson (2011), *For Kids’ Sake*, p 48.

⁴⁹ Parkinson (2011), *For Kids’ Sake*, p 14.

⁵⁰ Parkinson (2011), *For Kids’ Sake*, p 49, emphasis added.

⁵¹ Professor Susan Brown (2010), ‘Marriage and Child Well-Being: Research and policy perspectives’ 72 *Journal of Marriage and Family* 1059-1077, 1062 (references omitted), cited in Parkinson (2011), *For Kids’ Sake*, p 48. Emphasis added.

⁵² Professor Paul Amato (2010), ‘Research on Divorce: Continuing trends and new developments’ 72 *Journal of Marriage and Family* 650-666, 653, cited in Parkinson (2011), *For Kids’ Sake*, p 49. Emphasis added.

⁵³ Anderson Moore, Jekielek, and Emig (June, 2002), *Marriage from a Child’s Perspective*, p 1.

*it is not simply the presence of two parents, as some have assumed, but the presence of **two biological parents** that seems to support children's development.*⁵⁴

The importance of marriage is recognised by the UK think tank the Centre for Social Justice (CSJ). In a 2012 article titled "It Is Time to Back Marriage" it argued that the "most significant driver of social instability and poverty" is family breakdown.⁵⁵ It said family breakdown, "fuelled by cultural and economic barriers to marriage", is a "national emergency".⁵⁶

Supporting this statement the article cited a range of studies showing that:

- those who grow up in lone parent or broken families are between three to six times more likely to suffer serious abuse;
- children who are "on the 'at-risk' register are eight times more likely to be living with a natural mother and 'father substitute'";
- Children with separated, single or stepparents are 50 per cent more likely to fail at school, have low esteem, struggle with peer relationships and have behavioural difficulties, anxieties, or depression;
- Children in households with unrelated adults were nearly 50 times as likely to die of inflicted injuries than those with two biological parents;
- Parental separation is the biggest driver into child poverty by a large margin.
- Less than 10 per cent of married parents split by the time a child is five compared with more than a third of those who are not married;
- 97 per cent of all couples who are still together by the time their child is 15 are married;
- Children of married parents are more likely to achieve at school and less likely to use drink and drugs or get involved in delinquent or offending behaviour.⁵⁷

As the CSJ says:

*family policy that targets the devastating breakdown and chaos which damages children's opportunities and life chances should be the foundation on which we build a socially just society.*⁵⁸

The importance of marriage for child wellbeing, then, cannot be ignored. Social scientists agree that the evidence clearly supports the argument that children are best off living in a family headed by both their biological parents in a marriage. Of course, marriages can fail and can involve conflict, hence the importance of family support programmes discussed above. But approaching child protection policy without a strong emphasis on healthy marriage as a preventative measure will result only in more failure to reverse the trends of poor child wellbeing.

It was mentioned above that cohabitation does not provide the same security for children as marriage. As the research cited above by Professor Brown, Professor Amato, and Child Trends states, it is *married biological* parents, and not merely two parents or two cohabiting parents, who provide the most stable environment for children.

Professor Parkinson acknowledged this in his report. He states:

⁵⁴ Anderson Moore, Jekielek, and Emig (June, 2002), *Marriage from a Child's Perspective*, pp 1-2. Emphasis in original.

⁵⁵ The Centre for Social Justice (2012), *It Is Time to Back Marriage*, <http://www.centreforsocialjustice.org.uk/client/media/It%20is%20time%20to%20back%20marriage%2016%2002%2012.pdf>, p 1.

⁵⁶ The Centre for Social Justice (2012), *It Is Time to Back Marriage*, p 2.

⁵⁷ The Centre for Social Justice (2012), *It Is Time to Back Marriage*, pp 3-4.

⁵⁸ The Centre for Social Justice (2012), *It Is Time to Back Marriage*, p 7.

*Cohabiting relationships are typically quite short-term. The evidence from Australia is consistent with the evidence from many other parts of the world that de facto relationships break down at a very much faster rate than do marriages.*⁵⁹

He cites research from the Australian Institute of Family Studies showing that, for couples who began cohabiting between the 1970s and the mid 1990s, most would either marry or break up. After five years the break-up rate for cohabiting couples was four times higher than for married couples.⁶⁰ Referring to an analysis of the longitudinal Household Income and Labour Dynamics in Australia study, Parkinson found that:

*The odds of a de facto couple with children breaking up was more than seven times as high as a married couple who had not lived together before marriage, and more than four times as high as those who had lived together but went on to marry.*⁶¹

This emphasises the importance of not only promoting healthy relationships but of encouraging the commitment of marriage. The programmes discussed above should of course be available to all couples and expectant parents who choose to benefit from them, and support and counsel should be non-discriminatory. This should go without saying. However, to the greatest extent possible couples should be encouraged, whether through education programmes or government policy, to consider the benefits of committing to a marriage, especially before making the decision to have children.

Conclusion

This submission has demonstrated that the best outcomes for children are achieved when a child's biological parents remain in committed, stable, and loving relationships. What has not been tried in the plethora of recommendations emanating from inquiry after inquiry into the crisis in child protection is a policy approach aimed at encouraging marriage and couple relationships.

Even an incremental improvement in the breakdown of relationships would deliver big improvements in child wellbeing and big cost savings for government.

Any outcome of this inquiry which does not place a strong priority on encouraging marriage and committed couple relationships will likely result in little or no improvement.

Political correctness should not prevent a new focus on the earliest of early intervention strategies – that of strengthening children's parents' relationships long before he or she is born.

Please see ACL's recommendations below.

Yours faithfully



Wendy Francis
ACL Queensland Director

⁵⁹ Parkinson (2011), *For Kids' Sake*, p 65.

⁶⁰ Parkinson (2011), *For Kids' Sake*, p 65.

⁶¹ Parkinson (2011), *For Kids' Sake*, p 66.

Recommendations

ACL makes the following recommendations:

- That the Queensland Government take a new approach which promotes marriage as the most important foundation for healthy families and child wellbeing.
- That the Queensland Government seriously consider the *For Kids' Sake* report and implement its recommendations.
- That the Government consider how to facilitate and promote programmes that will provide education, counselling, and support to couples and families at various stages, including before they have children. *For Kids' Sake* makes a number of important recommendations in this regard.
- That in its review the Government consider how to improve relationships between case workers and families, and build trust between authorities and parents. Case workers should be experts in the field. The removal of children from parents must be a last resort, and an environment should be established in which both parents and children are encouraged to seek help without fear of being reported or having their families torn apart.
- That the Government address the problem of transition for young people leaving care upon turning 18. This should include leaving plans as well as assistance and training in employment, education, and other life skills.

For Kids' Sake

Repairing the Social Environment
for Australian Children
and Young People



Professor Patrick Parkinson AM



THE UNIVERSITY OF
SYDNEY



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Professor Patrick Parkinson AM

With Antoine Kazzi

Faculty of Law
University of Sydney

July 2011



THE UNIVERSITY OF
SYDNEY



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Prof. Patrick Parkinson

July 2011

About the Author

Patrick Parkinson AM is a Professor of Law at the University of Sydney. He was chairperson of a major review of New South Wales law concerning child protection which led to the enactment of the Children and Young Persons (Care and Protection) Act 1998. He served from 2004-2007 as chairperson of the Family Law Council, an advisory body to the Federal Attorney- General, and also chaired a review of the Child Support Scheme in 2004-05 which led to the enactment of major changes to the Child Support Scheme. He is President of the International Society of Family Law. Prof. Parkinson was made a Member of the Order of Australia in 2009 for service to the law and to legal education, particularly in the areas of family and child protection law, as an author, through contributions to policy reform, and to the community.

He has authored several books including Family Law and the Indissolubility of Parenthood (2011), Tradition and Change in Australian Law (4th edition, 2010), Australian Family Law in Context (4th edition, 2009), The Voice of a Child in Family Law Disputes (with Judy Cashmore, 2008), Child Sexual Abuse and the Churches (2nd edition, 2003) and Principles of Equity (editor, 2nd edition, 2003).



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Recommendations

Recommendation 1

That to further implement the National Framework for Protecting Australia's Children, and promote the emotional wellbeing of children and young people, the Federal Government should provide funding for a major new initiative to help strengthen relationships between couples and to support parent-child relationships. The funding, initially for a four year period, should be used:

- a. To assist in the development of education materials and the training of educators to offer relationship education programs in each local area, in workplaces and in universities.
- b. To encourage the development of materials, and the provision of programs, for culturally and linguistically diverse communities, that are offered in their languages and appropriate to their cultures.
- c. To encourage Parents and Citizens' Associations, community organisations such as Rotary or Lions Clubs, churches, other faith-based communities, Culturally and Linguistically Diverse organisations, gay and lesbian organisations and any other interested group to offer relationship education programs free of charge in their local community or in workplaces, or in universities, utilising trained volunteer educators, or educators paid on a sessional basis.

Recommendation 2

Programs on couple relationships should be offered both when people begin living together and when they are preparing for marriage. They should explore the benefits to the relationship of making the commitment of marriage, and address issues that arise for blended families and stepfamilies. They should also include material about domestic violence.

Recommendation 3

A screening questionnaire should be administered at the commencement of the program to identify relationships that are already affected by violence, and allow referral to appropriate sources of help.

Recommendation 4

Programs on parent-child relationships should address the importance of a healthy relationship between the parents for the wellbeing of children.

Recommendation 5

Programs on parent-child relationships should be developed for the following stages of parenthood, and should aim at involving both mothers and fathers:

- Preparing for childbirth.
- Starting primary school.
- Starting high school.

Programs on parent-child relationships should also be developed specifically for parents without partners who have the primary care of children, for stepfamilies, and for non-resident parents.

Recommendation 6

Programs should be accessible to people who have varying levels of formal education. They ought to involve group discussion and participation, and use DVDs and other means of communication that do not involve too heavy a reliance on the written word. They ought to be capable of delivery by volunteer leaders or instructors who are paid on a sessional basis.

Recommendation 7

The Federal Government should support the establishment, in each local government area, of community trusts and give tax-deductible status to donations to such trusts in order to support children and families. The goals of each community trust should be:

- To raise funds for local area organisations that support children and families.
- To distribute funds to local community organisations that support children and families.
- Where needed, to co-ordinate and provide strategic leadership to local initiatives that seek to improve the wellbeing of children.
- To identify gaps in services and to develop priorities for filling those gaps over time.
- To monitor the effectiveness of strategies to improve children's wellbeing in the local area.

Recommendation 8

Each Community Trust should be set up as an independent non-profit company that acts as a trustee. It should be managed by unpaid directors who live in the Local Government Area and are respected members of the local community. It should be supervised by, and accountable to the new Australian Charities and Not-for-Profits Commission. The trustees should be required, at least once per year, to distribute funds to charities and other non-profit organisations that have active programs (as opposed to just administrative offices) in the Local Government Area, and which provide:

- Relationship education or counselling.
- Parenting education or counselling.
- Family support programs.
- Support for children and young people.

Preference should be given to organisations that can demonstrate the involvement of volunteers in the work of the organisation.

Recommendation 9

The new Australian Charities and Not-for-Profits Commission should develop a model of terms for each Community Trust that could in principle be varied subject to approval by the Commission.

Recommendation 10

The Federal Government should establish a Families Commission to co-ordinate the work of the Government in strengthening family relationships and in reducing conflict between parents who have separated. The roles of the Families Commission should be to:

- a. Have responsibility for the implementation of the education programs on strengthening family relationships and supporting parent-child relationships.
- b. Provide insurance coverage for local education programs.
- c. Monitor success of programs and deal with complaints.
- d. Provide coordination and support for the national network of Family Relationship Centres.
- e. Provide policy advice to the state, territory and federal governments, in relation to initiatives which will have a positive or negative impact on families with children, reporting through the Department of Prime Minister and Cabinet to the Federal Government, and through the secretariat of the Council of Australian Governments in relation to matters that affect the work of the States and Territories.
- f. Promote targeted messages, through community education campaigns, that will improve the health of family relationships.
- g. Promote lecture tours and conferences involving leading experts on aspects of family life.

Recommendation 11

The Federal Government should establish an easily remembered, national phone number such as 333 for people in difficulties to be able to access government or community services that will most readily meet their needs, and which should be modelled on the 211 number in the USA. The number would be answered by staff in call centres based in major population centres who can listen empathetically to callers and direct them to services that are most likely to assist them. These call centres should be established by the States and Territories.

Recommendation 12

The Australian Institute of Family Studies should be asked to examine the gap between the aspirations of young adults to marry, their preference that children should be raised in the context of a marriage, and the reality of declining marriage rates and increased ex-nuptial births.

Recommendation 13

The Australian Institute of Family Studies should be asked to conduct a large scale study of the attitudes of people in cohabiting relationships at different life stages, to laws that treat them as if they were married, and to discern their views on the circumstances when it is, and is not, appropriate that a de facto relationship should have the same legal effects and consequences as marriage.

Recommendation 14

State, Territory and Federal Governments should review the direction of family policy in their jurisdictions, with a view to answering the following questions:

1. Does government policy, as far as possible, encourage the maintenance of safe, stable and committed relationships between parents?
2. Does government policy, as far as possible, encourage the procreation of children in a context that maximises their chances of experiencing a safe, stable and nurturing home environment?



Executive Summary

FOR KIDS' SAKE: REPAIRING THE SOCIAL ENVIRONMENT FOR AUSTRALIAN CHILDREN AND YOUNG PEOPLE

For very good reasons, Australians of all ages, backgrounds and political persuasions are concerned about the environment. What we do now in terms of looking after the environment will affect the nation not only in the present, but for generations to come. Rightly, we are thinking about what legacy we are going to leave our children, and their children, in terms of the natural world on which we all depend.

However little attention has been paid to the social environment in which our children are growing up, and the dangers that the deterioration of this environment presents for the future. Indeed, many of us may not even be aware of how bad things are becoming.

One of the reasons is that any report card on the wellbeing of the nation's children is likely to be mixed. Australia remains the Lucky Country in many respects. The wellbeing of Australian children has improved on a number of measures in the last decade or so, in particular in terms of physical and economic wellbeing. Yet overall levels of wellbeing, and even upward trends for the majority of the population, can disguise increasingly serious problems for many children. When the position of the nation's most troubled children and young people is considered, there are indications that all is not well, and that on numerous measures, the situation is deteriorating at an extraordinarily rapid pace. There has also been a decline, more generally, in the psychological wellbeing of young people. As a society, we may be healthier and wealthier than a generation ago, but contentment has proved much more elusive.

Chapter 1: The Canary in the Coal Mine

There is a canary in the coal mine that provides early warning about the extent of social problems we are facing, and this is in the child protection system. There has been a dramatic increase in the last 15 years in the numbers of children who are reported as being victims of, or at risk of, child abuse or neglect, the numbers of children where that abuse or neglect has been substantiated after investigation, and the total numbers of children in state care. That increase has been seen in every State and Territory in the country, indicating that it is not just the consequence of changes to legislation, policy or practice within one State or by one child welfare department, even if those changes are contributing factors.

Although there has been a numerical decline in substantiations since 2007, there is no reason to believe this reflects any real decrease in the incidence of abuse or neglect, because of the variations in ways complaints of abuse are investigated in different states and territories.

Perhaps the most worrying statistics are those about the numbers of children who have to live in out-of-home care because it is not safe for them to be cared for by their parents. A substantial proportion of these are Indigenous children. In just twelve years, from 1997 to 2009, the total number of children in out-of-home care has more than doubled, and in some states and territories, the rate of increase has been much higher. Foster care programs are now stretched to the limit – and beyond. The main reason for the dramatic increase in the number of children in out-of-home care is that fewer children are leaving care than entering it, and this has been the case for a decade or more. It seems that there has been a significant increase in the proportion of families in which the problems are so serious that restoration is not possible. This is consistent with other data that suggests that an increasing number of families are struggling with very complex problems.

The number of children in need threatens to overwhelm state and territory child protection departments. The Council of Australian Governments estimated in 2009 that State and Territory governments currently spend in excess of \$2 billion annually on child protection services, with average annual increases of more than 12 per cent. The crisis in child protection is just part of a broader pattern of serious deterioration in the wellbeing of many children and young people. It is a warning sign that all is not well with society as a whole.

Chapter 2: Adolescent Mental Health and Risky Behaviours

The dramatic increase in reported child abuse and neglect, and the increase in the numbers of children in care, is only a part of the story of deterioration in the wellbeing of Australia's children and young people. On many measures, although not all, the situation for adolescent girls in particular is deteriorating rapidly.

More than a quarter of young people aged 16-24 years have a mental disorder, compared with one in five (20%) in the general population. A further 24% of young people who have never experienced a mental disorder are experiencing moderate to severe psychological distress. Evidence around the country indicates the problems are getting worse. In New South Wales, public school data indicates that there has been an 8% per year increase in diagnosed mental health disorders other than autism. More than half the calls to Kids Helpline in Western Australia now involve a mental health issue, almost double the number just five years earlier. Nationally, in the last three years, there has been a large increase in the numbers of children being prescribed anti-depressants.

This psychological distress is reflected in the data on self-harming behaviour. There was a 66% increase in the numbers of 12-14 year old children having to be hospitalised as a result of intentional self-harm between 1996 and 2006. The level of self-harm by young teenage girls in this age group leading to hospitalisation is about six times the rate for boys. In the same period, there has been a 90% rise in hospitalisation of 15-17 year old girls due to self-harm incidents.

Psychological distress can also manifest itself in risky and damaging behaviour. An example of this is binge drinking. Although alcohol consumption by children and young people has declined a little in recent years, and significant progress has been made in reducing the levels of risky drinking by those under 18, children are having their first alcoholic drink at a younger and younger age, and dangerous binge drinking by adolescent girls – that is five or more drinks on one day – seems to have increased. This dangerous level of drinking is reflected in an increase in levels of hospitalisation due to alcohol intoxication. For young women aged 15–24, the rate of hospitalisations due to alcohol intoxication more than doubled between 1998 and 2006. There was also a substantial increase in hospitalisations due to alcohol for young men.

Another adverse trend is in terms of risky sexual behaviour among younger teenagers. Teenagers are engaging in sexual acts at a younger age and with more people today that they did in previous generations. That carries with it many risks, including sexually transmitted infections. There has also been a substantial increase in the number of teenage girls reporting unwanted sex. The most common reasons for unwanted sex were being drunk or because of pressure from a partner.

These are not just Australian problems. Numerous studies both in North America and Europe point to a very substantial increase in adolescent psychopathology in the last thirty years, and this cannot be explained away merely by changes in awareness, or in diagnostic tests. This ought to be a grave concern, because many mental disorders burdening adults begin in childhood or adolescence.

It would be tempting to see these problems as affecting just a minority of Australian young people. Governments, perhaps the community at large, tend to see social problems as being like spot fires, one here, one there, another in the distance. If the spot fire is threatening enough, action may be taken to deal with it. Too rarely do we recognise the possibility that behind the visible spot fires, a major bush fire is burning.

Chapter 3: Family Stability and Children's Wellbeing

If one examines only the individual statistics on issues such as the rise in reported abuse and neglect, or the increase in hospitalisation of adolescents for self-harm or alcohol intoxication, then there are a myriad different explanations that might be offered – including attempts to explain away the adverse trends. While different explanations may help understand the statistics on some issues, it is vital also to look at the cumulative picture, and to examine population-wide changes that may explain the deterioration in children's wellbeing overall.

While it would be simplistic to posit just one or two explanations, if there is one major demographic change in western societies that can be linked to a large range of adverse consequences for many children and young people, it is the growth in the numbers of children who experience life in a family other than living with their two biological parents, at some point before the age of 15. Family conflict and parental separation have a range of adverse impacts on children and young people.

Children are particularly badly affected by exposure to destructive conflict between parents. Sometimes that is alleviated when parents separate, but parental conflict and violence does not necessarily end on separation. Separation creates different sources of conflict between parents from the kind of conflict that occurs when parents live together. These ongoing conflicts take their toll on children. Children whose parents live apart are also exposed to more conflict in the post-separation family. Young people report significantly higher levels of conflict in stepfamilies and lone-parent families than in intact families. Stepfamilies in particular create new sources of tension.

Children whose parents live apart are also exposed to a greater number of risks and difficulties than children in intact families. They are significantly more likely to be subject to reports of abuse and neglect than intact families. Two of the most significant reasons for this are the presence of new partners who are not biologically related to the children, and the financial and other stresses of lone parenthood. Girls in particular are at much greater risk of sexual abuse from the mother's new partner than from their own father. Single parents, and especially those who are working to support the family, also have less time to monitor and supervise their children.

Chapter 4: Australia's Fragile Families

In Australia, the number of children who do not reach the age of 15 in an intact family with both of their biological parents has almost doubled within a generation. While the chances of a marriage ending in divorce have been increasing in the last 25 years, the increase in children experiencing parental separation is largely a consequence of the rapid rise in the numbers of children born into de facto relationships, which subsequently break down. There has also been an increase in the number of women giving birth to a child without having a cohabiting partner. In 2009, 35% of all births were outside marriage.

Cohabiting relationships are typically quite short-term, if they do not result in marriage. They break down at a very much faster rate than do marriages. People who are cohabiting but intend to marry (either as a first or subsequent marriage) are significantly less likely to separate compared to those who cohabit without having marriage plans. Even couples with children who live in de facto relationships have much higher rates of breakdown than married couples.

As more and more children grow up in fragile families, it ought to be expected that more and more children will experience adverse outcomes.

Chapter 5: A Focus on Prevention

There is now a consensus in Australia, as well as other western countries, that in order to make a lasting difference to the levels of child maltreatment, as well as other problems that children face, there has to be a focus on prevention. This emphasis has been endorsed by the Council of Australian Governments in its strategic plan for child protection (2009). Achieving a shift towards prevention is, however, easier said than done. This is because of the enormous and increasing demands for services targeted at children who have already been identified as having suffered harm.

Efforts at preventing child abuse and neglect need to be seen as part of a broader goal of reversing the deterioration in the social environment in which children grow up. While not all problems faced by Australia's children today, by any means, can be attributed to the consequences of unstable and conflictual family relationships, the fragility of Australian families over recent generations has been a major contributing factor.

There are two key strategies in promoting the wellbeing of children and preventing maltreatment. The first is to aim to ensure that children have safe, stable and nurturing relationships. The second is to promote the protective factors in families that will help parents to manage when they are experiencing significant challenges, hardships and difficulties, and which help children in these circumstances.

In Australia, various programs either delivered by, or funded by state, territory and federal governments support these two strategies. While government must play its part, either by direct services or by funding professional non-government organisations to do so, an expansion of government-funded services is not on its own sufficient to reverse the serious deterioration in the social environment in which children are growing up. There are limitations on the extent to which the work of rebuilding strong families in Australia can depend on professionals, given the costs involved. As long as programs rely essentially on government funding, and are delivered through paid professionals, the level of need is likely to far outstrip the resources available. It is important therefore, to invest in building community capacity to strengthen family relationships and to support vulnerable families without overly relying on paid professionals.

Chapter 6: Strengthening Family Relationships

One great need is to provide education programs about family life which will help address the knowledge deficits across the community through lack of healthy modelling in people's families of origin. Such programs need to address the realities of modern family life in Australia. The normal sequence of events a couple of generations ago, involving courtship, engagement, a wedding, living together and then having children, is less and less common as a life course. Even among those who are preparing for a first marriage, the sequence of events may well be quite different. Couple relationship programs also need to meet the needs of people who live together without plans to marry, and those who have repartnered following the breakdown of a marriage or cohabiting relationship. They should also include material about domestic violence.

It is proposed that there should be a major new initiative in providing community-based education programs for couple relationships and parent-child relationships, run mostly by trained volunteers, although some programs may be better suited to delivery by paid sessional instructors. These are not intended to replace the courses already offered by professional organisations, but rather to expand greatly their availability. These programs need to be accessible to people who have varying levels of formal education. They ought to involve group discussion and participation, and use DVDs and other means of communication that do not involve too heavy a reliance on the written word. These courses should be developed in partnership with established relationship counselling and educational organisations, and these organisations should be funded to provide training programs and other background support.

The goal needs to be to mainstream relationship education programs so that they are readily available to people throughout the community and seen as something that anyone and everyone should do, engaging in different courses at different stages of the life journey. In particular, educational programs for adults should be targeted at times of transition:

- Beginning to live together.
- Preparing for marriage.
- Preparing for childbirth.
- When children start primary school.
- When children start high school.

In addition to these general programs, it is important also that there be targeted programs available to reach particular groups – in particular parents without partners who have the primary care of children, stepfamilies, and non-resident parents.

State and federal governments need only play a very limited role in facilitating these educational programs. Two main roles are envisaged for governments to fulfil:

- a. Grants to relationship counselling organisations and similar groups, to enable the development of programs.
- b. Help in advertising the availability of programs to the general community.

The main costs to government will be in the first four years as the program is developed and rolled-out.

Chapter 7: A Community of Neighbours

There is also a need for programs that will support parents through tough times, and help build parental resilience. Australia already has some family support programs, but there is a great need for more of them. Family support programs are relatively low-cost services that help reduce the risk of child abuse and neglect. They also fulfil an important role in reducing social isolation and advancing social inclusion.

While a family support service needs professional staff to manage and coordinate the different aspects of the work of the service, much can also be done using volunteers, with benefits not only for recipients of services, but in building cohesive and supportive communities. There are already many examples in Australia of the successful use of volunteers to make a difference with vulnerable children and families. They do not require huge financial resources.

In order to support families and children and empower local communities, it is recommended that Community Trusts be established, if possible, in each Local Government Area, to help fund relationship education, counselling, family support programs and other forms of community support to improve the wellbeing of children in local communities. They will provide a focal point for local fundraising and volunteering efforts. Community Trusts ought to be independent of local Councils, but should work in close co-operation with them. They should also endeavour to provide co-ordination and vision for the non-profit sector within the area, so that over time there can be an increasingly planned approach to the provision of services, and action taken to try to fill gaps.

Each Community Trust should be managed by unpaid directors who live in the Local Government Area. The Community Trusts should be accountable to the new Australian Charities and Not-for-Profits Commission. The Commission should be responsible for trying to ensure, over time, that a community trust is established in every Local Government Area. Each state government should be asked to provide the small amount of money required to run each Community Trust. As far as possible, administrative support and financial management services should be provided by volunteers or on a pro bono basis.

The trustees should be required, at least once per year, to distribute funds to charities and other non-profit organisations that have active programs in the Local Government Area, and which provide:

- Relationship education or counselling.
- Parenting education or counselling.
- Family support programs.
- Support for children and young people.
- Programs and services to build community engagement and to reduce the social isolation of parents.

Gifts to the Community Trusts should be tax-deductible. The organisations to which it could provide support should be defined by statute. It is envisaged that this would be a broader range of purposes than currently attract tax-deductible status.

Donors could nominate specific charities or non-profit organisations to which they would like their money to be directed provided that the organisation is one that fits the criteria for distribution by the Trustees, and subject to certain conditions. Local Councils may be able to support community trusts by inviting ratepayers to round-up their quarterly or annual rate payments to the nearest dollar, with all such excess payments going into the Trust.

In the distribution of untied funds, preference should be given to organisations that can demonstrate that they involve volunteers in their work. The purpose of this provision is to help encourage community participation in the delivery of services to families and children, and to encourage a greater sense of ‘ownership’ by the local community of services that are intended to benefit the area.

In order to provide support for disadvantaged communities, it is proposed that each Community Trust be permitted to donate up to 15% of its funds which have not been earmarked for specific organisations, to a Community Trust in a disadvantaged area designated as such by the Federal Government. The Federal Government ought to consider encouraging donations to Community Trusts in disadvantaged areas, by offering to match funds.

Chapter 8: What Does Government Need to Do?

The proposals in this report need very little support from government, but they do need some legislative, financial and administrative facilitation, and some regulation and oversight. A fundamental principle in determining the level of regulation and oversight ought to be that the regulatory burden should be kept to the absolute minimum necessary to ensure that funds are expended for the purposes for which they have been given, and that there is adequate screening of volunteer participants who work with children.

In order to provide support for the massive expansion in relationship education programs that is envisaged, and to provide national leadership, it is proposed that there be a Families Commission, established by the Federal Government, that will have a strategic role in seeking to improve the wellbeing of families across the country. The Commission should have a full-time President who is a person with a national reputation in the field of family relationships and who has an extensive knowledge about relationship counselling, education and parenting after separation. There should be four other members consisting of representatives working in the field of relationship counselling and mediation, child psychology, child protection or family law. The Director of the Australian Institute of Family Studies should be an ex-officio member of the Commission.

The roles of the Commission would be as follows:

1. Provide oversight of the relationship education program.
2. Have responsibility for the Family Relationship Centres.
3. Provide policy advice to state, territory and federal Governments.
4. Run community education campaigns.

It is also proposed that the Federal Government should establish a nationwide phone number, to help people access appropriate community services, similar to the 211 number in the United States. One of the biggest problems faced by people who are struggling with multiple problems and difficulties is knowing how to get help, and from where. An easily-remembered number of this kind, going through to an area-based call centre, could well make a great difference to people who might struggle otherwise to connect with local services. These call centres ought to be funded by state and territory governments.

A final role for governments is to review the direction of their family policy. In the last twenty years or so, the dominant policy direction has been to treat all families alike without reference to family structure. Yet the overwhelming evidence from research is that children do best in two-parent married families, and this is not just the result of selection effects. The difference marriage seems to make is in the commitment that it involves, providing a greater degree of stability and resilience, especially when times are difficult. In reviewing family policy, the fundamental questions that ought to be asked are:

1. Does government policy, as far as possible, encourage the maintenance of stable, safe and committed relationships between parents?
2. Does government policy, as far as possible, encourage the procreation of children in a context that maximises their chances of experiencing a stable, safe and nurturing home environment?

Conclusion

Australia's increasingly fragile families are a major reason for the rise in child abuse and neglect, and the deterioration in the psychological wellbeing of so many children and young people.

There are ways that governments and the community could respond to repair the social environment of the nation. The question is now whether governments and concerned members of the community will have the vision and commitment to do so. The task of repairing the social environment begins with us, and will continue with us. Governments can assist in certain ways, and need to do so; but local communities must take responsibility, and as individuals, as families and as voters we need to consider what kinds of family life we should aim to foster and support.

The deterioration in the social environment has been rapid. The recovery will be much harder; but it is important to make a start, for kids' sake.



CHAPTER 1

The Canary in the Coal Mine

In November 2010, a terrible tragedy engulfed the small New Zealand town of Greymouth. An explosion at the Pike River coal mine trapped 29 men underground.¹ The explosions were caused by methane gas, a common hazard in coal mines but one for which there have long been early warning systems.² Why those systems did not detect the dangerous build up of these gases in the mine is an issue on which the subsequent inquiries are focusing.³

Years ago, before more sophisticated detection methods were developed, coal miners would take a canary in a cage down into the mine. Canaries are very sensitive to poisonous, but odourless, gases that might be released in mining operations. If the canary stopped singing and died, that was the signal for an immediate evacuation.

Australia has been ranked second in the world behind Norway on an index of human development published by the United Nations.⁴ On measures of life expectancy and levels of education, it ranks very highly. It remains the Lucky Country in many respects. The wellbeing of Australian children has improved on a number of measures in the last decade or so,⁵ in particular in terms of physical and economic wellbeing. There has been a substantial decline in death rates of children and young people, (mostly due to a decline in injury deaths). Indeed, infant and child mortality rates halved between 1986 and 2006. There has also been a decline in asthma hospitalisations and improved survival rates for childhood leukaemia.⁶ Many trends are in a positive direction, even if on some measures, Australia does not do well in comparison with many other countries in the Organisation for Economic Co-operation and Development.⁷

- ▶ Perhaps the strongest warning sign of social disintegration is the increase in reported child abuse and neglect.

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6. Australian Institute of Health and Welfare, *A Picture of Australia's Children 2009*, Cat no PHE 112 (2009) viii-ix.
7. See Australian Research Alliance for Children and Youth, *Report Card on the Wellbeing of Young Australians* (2008).

Yet overall levels of wellbeing, and even upward trends for the majority of the population, can disguise increasingly serious problems for many children. When the position of the nation's most troubled children and young people is considered, there are indications that all is not well, and that on numerous measures, the situation is deteriorating at an extraordinarily rapid pace. The very serious problems for Australia's Indigenous children and young people are well recognised,⁸ but the problems are not just within the Indigenous community. There are some seriously adverse trends for the community as a whole, indicating a continuing process of social disintegration. Just as odourless gases are not easily detected until they have built up enough to cause an explosion, so the signs of that social disintegration are largely hidden from public view.

Reported child abuse and neglect

Perhaps the strongest warning sign of social disintegration is the increase in reported child abuse and neglect. As Table 1 shows, there has been a dramatic increase in the numbers of children who are reported as being victims of child abuse or neglect, the numbers of children where that abuse or neglect has been substantiated after investigation, and the total numbers of children in state care. This massive growth in the numbers of children within the child protection system has occurred in every State and Territory across the country over the last 15 years, indicating that it is not just the consequence of policy changes or practices within one State or by one child welfare department.

Although various government reports have noted a decline in substantiations since 2007, as seen in Table 1, there is no reason to believe this reflects any real decrease in the incidence of abuse or neglect, because of the variations in ways complaints of abuse are dealt with in different states and territories. A case cannot be substantiated unless it is investigated, and States and Territories vary considerably in their practices in this respect. Some States respond to most notifications in ways other than by conducting a formal investigation. In 2009-10, for example, 71% of notifications in Victoria, 78% of those in South Australia and over 80% of the cases in Tasmania were dealt with in ways other than by conducting an investigation – for example by a referral to services.⁹ In New South Wales, an investigation can be undertaken at two levels of intensity. Only the more serious cases may lead to a recorded substantiation outcome.¹⁰ The proportion of notifications that were investigated ranged from 16.5% in the Australian Capital Territory to 100% in Queensland.¹¹ Definitions of substantiation also vary between States.¹²

8. Ibid.

9. Australian Institute of Health and Welfare, *Child Protection Australia 2009-10*, Cat no CWS 39 (2011) 15.

10. Ibid 14.

11. Ibid.

12. This is the reason given by the Productivity Commission for saying that substantiation rates cannot be compared across jurisdictions: Steering Committee for the Review of Government Service Provision, *Report on Government Services 2009* (Productivity Commission, 2009) 15.24.

Table 1: Child protection statistics, 1998-2010

	Total notifications	Total finalised investigations	Total substantiations	Children on orders	Children in OOHC
1998-99	103,302	50,009	-	17,881	15,674
1999-00	107,134	47,007	24,732	19,262	16,923
2000-01	115,471	66,265	27,367	19,917	18,241
2001-02	137,938	80,371	30,473	20,557	18,880
2002-03	198,355	95,382	40,416	22,130	20,297
2003-04	219,384	-	-	-	21,795
2004-05	252,831	121,292	46,154	25,065	23,695
2005-06	266,745	137,829	55,921	27,188	25,454
2006-07	309,448	-	60,230	29,641	28,379
2007-08	317,526	148,824	55,120	34,279	31,166
2008-09	339,454	162,259	54,621	35,409	34,069
2009-10	286,437	131,689	46,187	37,730	35,895

Source: Australian Institute of Health and Welfare, *Child Protection Australia* annual reports¹³

As the national figures on notifications demonstrate, there has been an increase in the numbers of notifications of abuse over a ten-year period from 103,000 to a peak of 339,000, with a recent decline in 2009-10, mainly as a result of changes to the threshold for reporting in New South Wales.¹⁴

This exponential growth in reports of children being at risk of child abuse and neglect certainly reflects changes in policy, for example, concerning mandatory reporting of child abuse in different states and territories, changes in definitions of abuse and neglect and other factors, and variations between states in terms of what is counted as a notification of abuse. It is hard to compare data across the years and across the States and Territories for this reason.

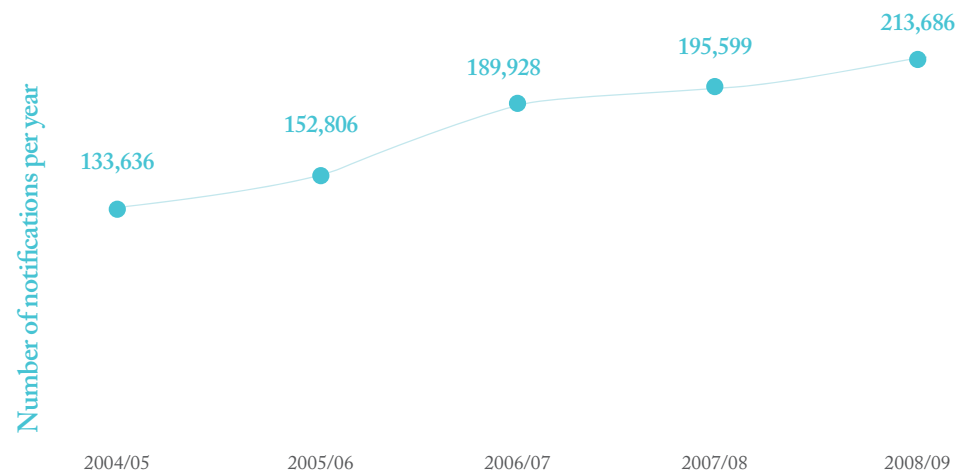
Nonetheless, some figures where comparisons can realistically be made, point to the scale of the increase in concerns about children's wellbeing, particularly their emotional wellbeing.¹⁵ New South Wales is an example. Amendments were made to its child protection legislation in 1998 which came into effect in 2000. This changed the law on the obligations of professionals to report concerns about child abuse and neglect. Changes were also made to the data system to support legislation and practice during 2002-03 which would make any comparison of figures inaccurate with previous years. New South Wales was also able to provide only limited data for 2003-04 due to these changes. It is possible, however, to make realistic comparisons of notifications between 2004 and 2009.

13. See also A Lamont, *Child Abuse and Neglect Statistics* (National Child Protection Clearinghouse, Australian Institute of Family Studies, February 2011) tbl 1.

14. Australian Institute of Health and Welfare, above n 9, 16.

15. The most common type of substantiated abuse is emotional abuse, ranging from 34% in New South Wales to 50% in Tasmania: Ibid 20.

Figure 1: Notifications of childhood abuse and neglect, New South Wales, 2004-09



Source: Australian Institute of Health and Welfare, *Child Protection Australia 2009-10*

This overall increase is composed of an increase in the number of new children coming to the attention of the child protection Department and an increase in the number of further reports made about children already known to the Department. The greatest increase has been in terms of subsequent notifications of children already notified previously.¹⁶ A 2010 report of Community Services in New South Wales indicated the extent of the increase in reports in that State:¹⁷

“At 30 June 2009, 27 per cent of NSW children aged under 18 years were ‘known to Community Services’. ... This is compared with the finding of 19 per cent of all NSW children ‘known to DoCS’ at 30 June 2005 in our earlier report.”

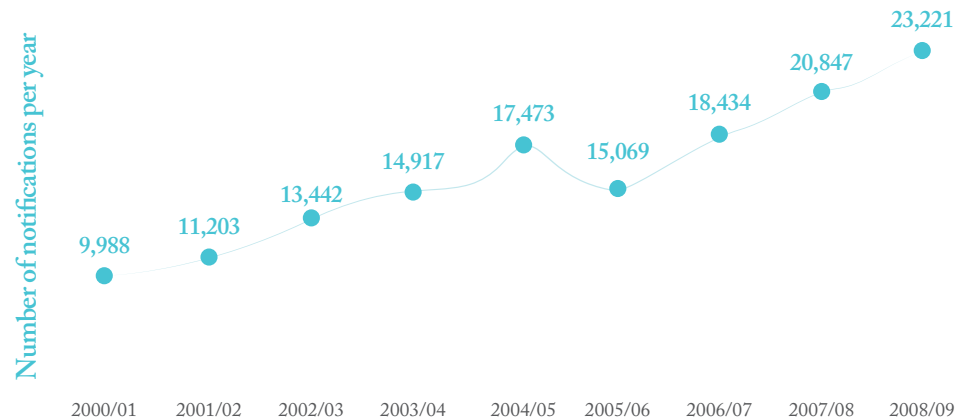
Differences in legislation and practice between New South Wales and other States, and in particular, the policies of the New South Wales Police Service in reporting child protection concerns prior to changes introduced in 2010, mean that the total number of notifications of child abuse and neglect cannot easily be compared with other States and Territories. It is not the absolute numbers of notifications, but the increases over a short period when definitions and reporting requirements were stable within one jurisdiction, which is so disturbing.

16. NSW Department of Community Services, *A Closer Look: Recent trends in child protection reports to DoCS* (December 2007) fig 4.

17. A Zhou, *Estimate of NSW Children Involved in the Child Welfare System* (Human Services, Community Services, June 2010) 8-9.

A similar picture of increasing notifications may be seen in South Australia. In 2000–2001, changes were made in the way it recorded its notifications of child abuse and neglect, making comparisons with earlier years difficult. These are the figures on reports of abuse and neglect between that time and 2009:¹⁸

Figure 2: Notifications of childhood abuse and neglect, South Australia, 2000–09



Source: Australian Institute of Health and Welfare, *Child Protection Australia 2008–09*

The scale of that increase over a short period is concerning. A study published in South Australia in 2008 compared three cohorts of children – born in 1991, 1998 and 2002. It found that the likelihood of a child born in 2002 experiencing at least one notification was double that of children born in 1991, and that the rate of increase in notifications for infants and very young children was particularly high. The research team also found that children in the more recent cohorts were more likely to have abuse substantiated.¹⁹ While changes in legislation, policy and practice no doubt explain some of this increase, its magnitude, in just one decade, points to an underlying and substantial increase in the family problems leading to such reports.

18. The number of notifications dropped from 23,221 in 2008/09 to 20,298 in 2009/10. During 2009–10, South Australia implemented a new client information system. This was accompanied by policy and practice changes, with the consequence that data for this year are not fully comparable to previous years' data: Australian Institute of Health and Welfare, above n 9.

19. C Hirte, N Rogers and R Wilson, *Contact with the South Australian Child Protection System: A statistical analysis of longitudinal child protection data* (South Australian Department for Families and Communities, 2008).

Across the country, with 8 different jurisdictions, and considerable variations in resourcing, policy and practice, the overall trends are clear that there has been a substantial increase in reports about child abuse and neglect over the last 15 years or so. A little of this increase can be explained by population growth, and there are those who would argue that there has been increased awareness of child protection issues and a greater willingness of people to report. Yet awareness of child protection issues among professionals is far from new. That awareness developed in the 1980s and early 1990s. There might have been an increase in awareness about child abuse since then, and there has certainly been an increased awareness of the effects of domestic violence on children, but it is difficult to argue that the growth in reports of children at risk results only from increased awareness.

In most States and Territories, mandatory reporting provisions also date from the late 1980s and early 1990s. The scope of mandatory reporting has certainly been widened in some States since then, and so some of the rise in reports may be the consequence of increased reporting obligations on professionals. Yet professionals who have concerns about the wellbeing of a child have long been encouraged to report those concerns, and in most cases would feel a professional obligation to do so.

An analysis of the data from Western Australia illustrates the point. From the mid-1990s to 2006, Western Australia appeared to have a relatively stable level of notifications. It also had no mandatory reporting. However, in its notification statistics, the Department had only counted those notifications that were followed by an investigation. From 2006-07, Western Australia began to record all concerns about the wellbeing of a child as a notification, in line with the practice in other States. In that year, 7,700 notifications were made. By 2007-08, the figure had increased to 8,977. Only in January 2009 was a mandatory reporting obligation introduced, and only in relation to child sexual abuse. While this contributed to the rise in reports in 2008-09 to 10,159 and a further substantial rise in 2009-10,²⁰ the trend of increase, reflecting patterns in other States, was evident before any mandatory reporting came in. Furthermore, substantiated cases of *all* forms of child abuse and neglect increased year after year in Western Australia through the latter half of the decade.²¹

20. Australian Institute of Health and Welfare, above n 9, 16. The reported statistics for 2009-10 are based upon an analysis of March 2010 data.

21. Complete year data is not available for 2009-10.

Table 2: Substantiated cases of abuse and neglect, Western Australia, 2005-09

	Neglect	Emotional	Physical	Sexual
2005-06	253	128	259	182
2006-07	439	151	294	203
2007-08	480	188	320	243
2008-09	523	209	325	267

Source: Department for Child Protection, *Annual Report 2007-08* and Department for Child Protection, *Annual Report 2008-2009*

While increased awareness and the increase in reporting obligations on professionals may play a role, and it is certainly possible to argue about the meaning of individual statistics,²² the likelihood is that much of the growth in reports nationally has arisen because of a substantial increase in the numbers of children about whom professionals have reason to be concerned.

Children in out-of home care

- In just twelve years, from 1997 to 2009, the total number of children in out-of-home care has more than doubled.

Perhaps the most worrying statistics are those about the numbers of children who have to live in out-of-home care because it is not safe for them to be cared for by their parents. These are the children who are most vulnerable, the ones most badly affected by parental problems and family dysfunction. A substantial proportion of these are Indigenous children. In 2009-10, the national rate of Indigenous children in out-of-home care per 1000 children in the population was almost 10 times the rate for non-Indigenous children.²³

In just twelve years, from 1997 to 2009, the total number of children in out-of-home care has more than doubled. Table 3 shows the numbers of children in out-of-home care per 100,000 children aged 0-17. In 1997, three children in every 1000 were in state care. By 2009 it was 6.7 per 1000. In New South Wales, 3.4 children per 1000 were in care in 1997. By 2009, 9.4 children per 1000 were in care, nearly three times as many. The increase in the Northern Territory from 1.9 per 1000 in 1997 to 7.7 per thousand in 2009 represents a fourfold increase. Even in the Australian Capital Territory, which is for essentially the affluent public service city of Canberra, there has been a threefold increase.

22. The different definitions of abuse between states, changes in those definitions and data collection practices over time, the effects of mandatory reporting laws, variations in child protection practice between states, and changes in the willingness of people to report their concerns about the safety of children all impact upon notification rates and substantiation rates across the country. Notification and substantiation rates actually fell in 2009-10 (Australian Institute of Health and Welfare, above n 9). Notifications fell mainly because NSW, which has a substantial majority of the notifications, changed its approach through legislation and raised the threshold for reporting with the consequence that notifications fell by 27% (ibid 16). That fall then had an impact on substantiations, which fell 23% (ibid 19). Queensland's rate of notifications and substantiations has also been falling, apparently as a consequence of changes in recording criteria (ibid 16, 19). The most reliable data come from States and Territories where legislation, practice and recording of reports have been unchanged over a significant period of time. In these States and Territories, the trend of ever-increasing notifications has generally continued.

23. Australian Institute of Health and Welfare, above n 9, 55.

Table 3: Rates of children aged 0-17 years in out-of-home care, states and territories (per 1,000 children), 1997-2010

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
1997	3.4	3.0	2.5	2.2	3.2	3.7	2.1	1.9	3.0
1998	3.5	3.2	2.6	2.3	2.8	3.6	2.2	2.3	3.1
1999	4.0	3.1	2.9	2.5	2.9	4.4	2.2	3.0	3.3
2000	4.5	3.4	2.9	2.8	3.2	4.6	2.6	3.0	3.6
2001	4.9	3.4	3.3	3.0	3.3	4.8	2.8	2.7	3.9
2002	5.0	3.4	3.5	3.1	3.4	4.6	2.8	2.7	3.9
2003	5.4	3.5	4.0	3.3	3.6	4.0	3.6	3.8	4.2
2004	5.7	3.7	4.6	3.5	3.5	4.1	3.8	4.3	4.5
2005	5.8	3.8	5.8	3.8	3.9	4.9	4.5	5.5	4.9
2006	6.2	4.1	6.0	4.0	4.3	5.8	5.1	5.9	5.3
2007	7.3	4.3	5.8	4.7	4.8	5.7	5.2	6.4	5.8
2008	8.4	4.2	6.4	5.0	5.2	5.6	5.5	6.4	6.3
2009	9.4	4.3	6.7	5.1	5.7	6.8	6.3	7.7	6.7
2010	9.9	4.4	6.8	5.1	6.1	7.5	6.7	8.8	7.0

Source: Australian Institute of Health and Welfare, *Child Protection Australia 2009-10* and Australian Institute of Health and Welfare, *Child Protection Australia 2006-07*

The rise in the number of children in care per 1000 children in the population over the last decade or so has been a consistent trend across every State and Territory. It is only the magnitude of the increase that differs between jurisdictions, with Victoria having the lowest rate of increase and the Northern Territory the highest. These statistics on the growth in numbers of children in care are particularly concerning because sometimes long-term out-of-home care can add to the problems that led children into care in the first place, particularly where the child experiences multiple placements over his or her time in care.²⁴

Why has this growth occurred? It is not because more children are going into care each year. The main reason is that fewer children are leaving care than entering it, and this has been the case for a decade or more. In 2001, for example, the number of children coming into care was 12,030, and the number discharged from care was 8,799. That was the pattern throughout most of the decade.²⁵ In 2009-10, for example, 12,002 children came into care and 9,330 were discharged from it. Certainly, there have been variations between States and Territories in the proportion of children coming into and being discharged from care over the decade, but the national picture overall, is a relatively consistent one.

24. J Cashmore and M Paxman, 'Predicting After-care Outcomes: The importance of 'felt security'' (2006) 11 *Child and Family Social Work* 232-241.

25. Nation-wide statistics are not available for every state and territory and in every year. See C Tilbury, 'A 'Stock and Flow' Analysis of Australian Child Protection Data' (2009) 4 *Communities, Children and Families Australia* 9-17.

As the numbers of children coming into care across the country far exceed the numbers being discharged from care, year after year, the total numbers of children in care increase inexorably. What does this change represent? When children come into out-of-home care, it has often been the case in the past that such care has been quite short-term. Efforts are made to work with the parent to resolve the issues that have led to the need for out-of-home care, and to restore the child or children to the parent's care. What has been happening in the last ten years or so is that more children have been staying in long-term out-of-home care. Between 2001 and 2008, the percentage of children who were in care for less than 2 years decreased from 73.7% to 51.2%. The percentage of children who were in out-of-home care for 2 years or more increased from 26.3% to 48.8%.²⁶

The most likely explanation for this is that there has been a significant increase in the proportion of families in which the problems are so serious that restoration is not regarded as possible. This was, for example, the explanation given by an Inquiry in the Northern Territory,²⁷ which found a

“general consensus about the reasons for the increased demand for OOHC. Children come into care from increasingly complex family situations associated with parental substance abuse, mental health, poverty, homelessness and family violence which have a bearing on the length of time spent in care.”

This is consistent with other data that suggests that the proportion of families with very complex problems is increasing.²⁸ This has been observed not only with the families coming to the attention of child protection departments but also those families coming into contact with the family law system.²⁹

26. Ibid 15.

27. M Bamblett, H Bath and R Roseby, *Growing them Strong, Together: Promoting the safety and wellbeing of the Northern Territory's children: Report of the Board of Inquiry into the Child Protection System in the Northern Territory 2010* (Northern Territory Government, 2010) 329.

28. Boston Consultancy Group, *NSW Government Out of Home Care Review: Comparative and historical analysis* (September, 2009).

29. R Kaspiew, M Gray, R Weston, L Moloney, K Hand, L Qu and the Family Law Evaluation Team, *Evaluation of the 2006 Family Law Reforms* (Australian Institute of Family Studies, 2009).

Many parents who come into the child protection system suffer multiple severe difficulties.³⁰ For example, a study in Victoria published in 2003 found that the complexity of cases with which the child welfare department had to deal had increased significantly over 5 years.³¹ Children were more likely to have had multiple notifications to the Department, and substantiation rates had increased. Children were also more likely to be assessed as experiencing ongoing risk of harm.

Findings about the increased complexity of child protection work in the last few years have also been made in other states. A review in Western Australia which was published in 2007 said that staff had reported an increasing number of families coming to their attention who had complex and multiple problems, including poverty, inadequate housing, mental illness, drug or alcohol abuse and family and domestic violence. Children and young people also had more complex issues than previously, with multiple issues including poor school attendance and performance, poor physical, mental and dental health, sexualised behaviours, challenging behaviours, lack of social and age-appropriate living skills and criminal behaviour.³² A Tasmanian inquiry reported in 2006 that:³³

“Evidence was provided that child protection work has become increasingly complex with the families involved likely to present with an array of intertwined and long standing issues, many of which are related to poverty. Families involved with child protection services face many challenges and difficulties with increased numbers of parents with housing issues, psychiatric illness, serious problems of drug and alcohol abuse and experience of domestic violence and marriage breakdown.”

While great efforts are made through intensive family support programs to prevent children having to go into care, those who do need to do so come from an increasingly large ‘hard end’ of families in which restoration may not be possible.

30. L Bromfield, A Lamont, R Parker and B Horsfall, *Issues for the Safety and Wellbeing of Children in Families with Multiple and Complex Problems* (National Child Protection Clearinghouse, 2010). See also P Delfabbro, M Borgas, N Rogers, H Jeffreys and R Wilson, ‘The Social and Family Backgrounds of Infants in South Australian Out-of-Home Care 2000-2005: Predictors of subsequent abuse notifications’ (2009) 31 *Children and Youth Services Review* 219-226; H Jeffreys, C Hirte, N Rogers and R Wilson, *Parental Substance Misuse and Children's Entry into Alternative Care in South Australia* (South Australian Department of Families and Communities, 2009) 26.

31. Allen Consulting Group, *Protecting Children: The Child Protection Outcomes Project* (2003) 6-8.

32. P Ford, *Review of the Department for Community Development* (Department of the Premier and Cabinet, 2007) 39.

33. A Jacob and D Fanning, *Report on Child Protection Services in Tasmania* (Tasmanian Department of Health and Human Services and the Commissioner for Children, 2006) 68. The report also indicated that the rate of renotification of the same child had increased from 58.3% in 2003-04 to 74.2% in 2005-06, and there had been an even higher level of re-notifications of the same sibling group (ibid 34).

Child protection: The continuing crisis

The numbers of children in need threaten to overwhelm state and territory child protection departments. The Council of Australian Governments estimated in 2009 that State and Territory governments currently spend in excess of \$2 billion annually on child protection services, with average annual increases of more than 12 per cent.³⁴

This ever-increasing level of expenditure has only done a little to alleviate the serious problems faced by child protection services. Indeed, for child protection services, ‘crisis’ is an almost permanent state. Since 2002 there have been at least 13 different government inquiries into child protection services in the eight states and territories of Australia.³⁵ These include the Layton Report in South Australia (2003),³⁶ a report on Tasmanian child protection services (2006),³⁷ the Ford Review in Western Australia (2007),³⁸ the Wood Inquiry in New South Wales (2008),³⁹ a Parliamentary Inquiry into the South Australian child protection department (2009)⁴⁰ and an inquiry in the Northern Territory (2010).⁴¹ The government of Victoria announced a wide-ranging new inquiry into the child protection system in 2011, with the Premier declaring that Victoria had a “Child Protection System in crisis”.⁴² The national concern has resulted in the Federal Government providing some leadership in an area that is largely governed by State legislation, policy and service provision, in the form of a national framework, adopted by the Council of Australian Governments.⁴³

Particular attention has, rightly, been given to the issue of child protection in Aboriginal communities. The Federal Government established the Northern Territory National Emergency Response, because of immense public concern following a report of a Board of Inquiry in 2007 commissioned by the Northern Territory government into child sexual abuse in Indigenous communities.⁴⁴ That Response continued, with some changes, following a change of government at the federal level.

34. Council of Australian Governments, *Protecting Children is Everyone's Business: National framework for protecting Australia's children 2009–2020* (2009) 9.

35. Australian Institute of Health and Welfare, above n 9, app 8. The list given here does not capture all the inquiries that have been undertaken by or on behalf of government or by Parliamentary committees.

36. R Layton, *Our Best Investment: A state plan to protect and advance the interests of children* (Department of Human Services, 2003).

37. Jacob and Fanning, above n 33.

38. Ford, above 32.

39. J Wood, *Report of the Special Commission of Inquiry into Child Protection Services in NSW* (State of NSW through the Special Commission of Inquiry into Child Protection Services in NSW, 2008).

40. Select Committee on Families SA, Parliament of South Australia, *Report of the Select Committee on Families SA* (2009).

41. Bamblett et al, above n 27.

42. T Baillieu, in media release: Premier of Victoria, ‘Protecting Victoria's Vulnerable Children: inquiry launched’ (Media Release, 31 January 2011).

43. Council of Australian Governments, above n 34.

44. Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, *Little Children Are Sacred* (Northern Territory Government, 2007).

The Board of Inquiry in the Northern Territory summed up the continual refrain across the country in terms of child protection services. It began:⁴⁵

“The Board of Inquiry into the child protection system in the Northern Territory has found a system in distress, staff stretched beyond capacity, children living at considerable risk of harm, and a community of children and families with complex needs and problems requiring urgent and ongoing assistance from a system that is overwhelmed.”

The report of a parliamentary inquiry into the child protection system in South Australia in 2009 also declared that “the statutory child protection system in South Australia is in crisis”,⁴⁶ and criticised almost every aspect of the Department’s work.

Other reports express their concerns in a more measured way but point to the same issues. A report of the Victorian Ombudsman into the child protection system observed that “the system is struggling to meet its operational responsibilities”. He went on to report that a large proportion of children subject to the department’s intervention were not allocated to a child protection worker, and that the degree of tolerance of risk to children, varied across the state according to the local departmental office’s ability to respond, resulting in cases where children were left in situations of unacceptable risk. He also noted serious difficulties in recruiting staff, especially in rural areas, and retaining staff.

For those with a long-term involvement in child protection, these reports have a sadly familiar ring. There were similar reports in the 1990s, and while after so many of these reports, governments engage in comprehensive reforms, and promise to do better, these reforms often mark just another staging post on the way to more inquiries, more recommendations, more reform, and more money devoted to the problems.

This is not to say that the recommendations of each report are not helpful. They often call for better interagency co-operation, better ways of responding to the large number of notifications of abuse, and propose reforms to other aspects of the child protection system such as the provision of out-of-home care. They sometimes propose structural changes to the relevant child welfare department. Changes of name for such departments across Australia are common, but rebadging and restructuring does not fundamentally alter the nature of the problems or offer lasting solutions. These child protection departments typically have far more demands upon their services than resources available to meet them. They also have trouble recruiting and retaining staff, with the consequence that many staff are under-qualified, inexperienced, and expected to cover a workload much greater than they can reasonably handle.

45. M Bamblett, H Bath and R Roseby, *Growing them Strong, Together: Promoting the safety and wellbeing of the Northern Territory’s children: Summary Report of the Board of Inquiry into the Child Protection System in the Northern Territory 2010* (Northern Territory Government, 2010) 1.

46. Select Committee on Families SA, above n 40, 5.

- Overall, 40 per cent of young people 16-24 years have experienced a mental disorder at some point in their lives.

The family problems with which they must deal are also not amenable to easy solutions. Child protection workers often face Hobson's Choice. The level of dysfunction in so many families is such that even intensive professional family support services, or treatment programs for drug and alcohol addiction, may only achieve modest gains in parenting capacity – and there is always the risk that hard-won gains will again be lost over time. Yet the alternative option of removing children into out-of-home care also has its significant downsides. Children often form strong attachments to even the most dysfunctional parents and separation from them comes at a high emotional cost for both themselves and their parents. With the massive increase in the number of children in out-of-home care over the last decade, alternative care options are stretched to the limit. If there is not a relative who is able to provide a home for the children, and who is a viable alternative carer, then reliance must be placed on an already overburdened foster care system.

Child protection interventions often require professionals to make choices that would trouble the most expert and experienced staff. Yet far too few of the staff that child protection services manage to recruit and retain are either expert or experienced. It is no wonder that the child protection system strains under the weight, and report after report declares that once again, the system is in 'crisis'.

As will be seen in the next chapter, the crisis in child protection is just part of a broader pattern of serious deterioration in the wellbeing of many children and young people. It is a warning sign that all is not well with society as a whole. We need to see what is happening to the canary in the coal mine.



CHAPTER 2

Adolescent Mental Health and Risky Behaviours

The massive increase in reported child abuse and neglect, and the increase in the numbers of children in care, is only a part of the story of deterioration in the wellbeing of Australia's children and young people. What is happening for young people in particular ought also to be of great concern. On many measures, although not all, the situation for young people is deteriorating rapidly.

Mental disorders in adolescence

A national survey conducted in 1997 found that 14% of children and young people between the ages of 4 and 17 had a mental disorder.⁴⁷ The Australian Bureau of Statistics 2007 National Survey of Mental Health and Wellbeing found that more than one in four young people aged 16–24 years (26%) have a mental disorder, including substance use disorders, compared with one in five (20%) in the general population. Indeed, the prevalence of mental disorders experienced in the previous 12 months was highest in young adults aged 16–24 and declined with age.⁴⁸

Overall, 40 per cent of young people 16–24 years have experienced a mental disorder at some point in their lives.⁴⁹ Fourteen per cent of women and 4% of men have an anxiety disorder. This includes panic disorder, obsessive compulsive disorder, social phobia and post-traumatic stress disorder. A further 4 per cent of young women have an anxiety disorder combined with a substance disorder.⁵⁰

47. M Sawyer, F Arney, P Baghurst, J Clark, B Graetz, R Kosky, B Nurcombe, G Patton, M Prior, B Raphael, J Rey, L Whaites and S Zubrick, 'The Mental Health of Young People in Australia: Key findings from the child and adolescent component of the National Survey of Mental Health and Wellbeing' (2001) 35 *Australian and New Zealand Journal of Psychiatry* 806–814.

48. T Slade, A Johnston, M Oakley Browne, G Andrews and H Whiteford, '2007 National Survey of Mental Health and Wellbeing: Methods and key findings' (2009) 43 *Australian and New Zealand Journal of Psychiatry* 594–605, 599.

49. Muir et al, above n 5, 96.

50. Ibid 97.

There is evidence that the level of special need due to mental health is increasing. For example in government schools in New South Wales, overall, expenditure on special education has been rising at the rate of 11% per year over the last decade.⁵¹ That growth has been driven in part by an increase in the number of children with a confirmed disability. There has been an 8% per year increase in mental health disorders other than autism.⁵² In Western Australia, there has been a steady increase in the proportion of children and young people presenting to Kids Helpline counsellors with a mental health issue in the last five years. In 2005, 27% of counselling contacts involved a mental health issue. By 2009 this figure had risen to 53.1%, almost double the rate of five years earlier.⁵³ In 2003, anxiety and depression were the second greatest burden for Australian girls aged 10-14, after asthma.⁵⁴ In Queensland, anxiety and depression surpassed asthma in 2006 to become the leading cause of health burden to girls under 14.⁵⁵

Nationally, there has been a large increase in the numbers of children being prescribed anti-depressants, rising from under 4000 in 2007-08 to more than 6,500 in 2009-10.⁵⁶ The speed of the deterioration in the mental health of children and young people is very concerning.

51. This data is contained in a confidential Boston Consulting Group report to the NSW Government dated 29 January 2010: Boston Consulting Group, *Expenditure Review of the Department of Education and Training (DET) – Initial Scan: Draft final report* (NSW Government, 29 January 2010) 67. Although marked Cabinet-in-Confidence, it is publicly available through the internet: Boston Consulting Group, *Expenditure Review of the Department of Education and Training (DET) – Initial Scan: Draft final report* (31 May 2011) Google, Australia <images.smh.com.au/file/2011/03/21/2244150/education.pdf>.
52. Ibid 74.
53. Commissioner for Children and Young People WA, *Report of the Inquiry into the Mental Health and Wellbeing of Children and Young People in Western Australia* (2011) 47.
54. R Mathews, W Hall, T Vos, G Patton and L Degenhardt, 'What are the Major Drivers of Prevalent Disability Burden in Young Australians?' (2011) 194 *Medical Journal of Australia* 232-235, box 2. Asthma accounted for 21.3% and anxiety and depression accounted for 16.4% of the prevalent years lived with disability (PYLD) for this group: 'PYLD are the healthy years of life lost in the year of the study by people who have the disease or injury. They are distinct from incident years lived with disability, which are the future years of healthy life lost from new cases of disease or injury.' (ibid 232)
55. Anxiety and depression account for 25.6% of the total Disability-Adjusted Life Years (DALYs) for 2006: see M Bright, S Begg and C Harper, *Age Group Divergences in Burden of Disease and injury in Queensland, 2006*, Queensland Burden of Disease and Injury circular series 2, no 3 (revised, December 2010) tbl 3; cf S Begg, S-L Khor, M Bright, L Stanley, J O'Brien and C Harper, *Age Group Differences in Burden Of Disease and injury in Queensland, 2003*, Queensland Burden of Disease and Injury series 1, circular 3 (2008) tbl 2. The concept of DALYs is a widely used measure in the assessment of burden of disease among a population, and 'is calculated as the sum of the years of life lost due to premature mortality (YLL) in the population and the equivalent 'healthy' years lost due to disability (YLD) for incident cases of the health condition': S Begg, T Vos, B Barker, C Stevenson, L Stanley and A Lopez, *The Burden of Disease and Injury in Australia 2003*, Cat no PHE 82 (Australian Institute of Health and Welfare, 2007) 11. Nationally, anxiety and depression were second to asthma as a serious health problem for girls under 15 in 2003: ibid 48.
56. Federal Government data, published in E Doherty and M Betts, 'Alarm as More Kids on Anti-Depressants', *Herald Sun* (online), 30 May 2011 <<http://www.heraldsun.com.au/news/more-news/alarm-as-more-kids-on-anti-depressants/story-fn7x8me2-1226065193289>>. This reflects international trends. See W Cooper, P Arbogast, H Ding, G Hickson, D Catherine Fuchs and W Ray, 'Trends in Prescribing of Antipsychotic Medications for US Children' (2006) 6 *Ambulatory Pediatrics* 79-83; C Parks Thomas, P Conrad, R Casler and E Goodman, 'Trends in the Use of Psychotropic Medications among Adolescents' (2006) 57 *Psychiatric Services* 63-69; R Findling, H Steiner and E Weller, 'Use of Antipsychotics in Children and Adolescents' (2005) 66:Supp 7 *The Journal of Clinical Psychiatry* 29-40; A Tonkin and J Jureidini, 'Wishful Thinking: Antidepressant drugs in childhood depression' [Editorial] (2005) 187 *The British Journal of Psychiatry* 304-305; T Delate, A Gelenberg, V Simmons and B Motheral, 'Trends in the Use of Antidepressants in a National Sample of Commercially Insured Pediatric Patients, 1998 to 2002' (2004) 55 *Psychiatric Services* 387-391; M Olsson, S Marcus, M Weissman and P Jensen, 'National Trends in the Use of Psychotropic Medications by Children' (2002) 41 *Journal of the American Academy of Child and Adolescent Psychiatry* 514-521; J Rushton and J Timothy Whitmire, 'Pediatric stimulant and Selective Serotonin Reuptake Inhibitor Prescription Trends: 1992 to 1998' (2001) 155 *Archives of Pediatric and Adolescent Medicine* 560-565; E Schirm, H Tobij, J Zito and L T de Jong-van den Berg, 'Psychotropic Medication in Children: A study from the Netherlands' (2001) 108 *Pediatrics* E25.

Psychological distress

In addition to those with a mental disorder at a clinical level, the National Survey of Mental Health and Wellbeing in 2007 found that a further 24 per cent of young people who have never experienced a mental disorder are experiencing moderate to severe psychological distress.⁵⁷ Psychological distress was particularly high among those who were neither in paid work nor undertaking education.⁵⁸

A review of the data for the Federal Government's Office of Youth concluded that:⁵⁹

"While young people with a current mental disorder are potentially most at risk, the other rates of distress are concerning because they show that a sizable proportion of young people who do not have a current mental disorder experience poor mental health. Across all young people 16-24 years, one in three are experiencing medium to high psychological distress (whether they have a mental disorder or not)."

Self-harm

The national data on the levels of psychological distress is reflected in the data on self-harming behaviour. There was an alarming increase in the numbers of 12-14 year old children, both boys and girls, having to be hospitalised as a result of intentional self-harm over the 10-year period from 1996-2006.⁶⁰ Figure 3, based on data provided for this report by the Australian Institute of Health and Welfare, gives the rate of hospitalisation due to self-harm for 12-14 year old boys and girls from 1996-97 to 2005-06.⁶¹ Overall, taking the numbers for boys and girls together, there has been an increase from nearly 43 per 100,000 young people in the population to nearly 71 per 100,000 young people in just ten years, an increase of 66%. That increase has been relatively consistent, year after year. The level of self-harm by young teenage girls is especially troubling, and is about six times the rate for boys.

57. Muir et al, above n 5, 98.

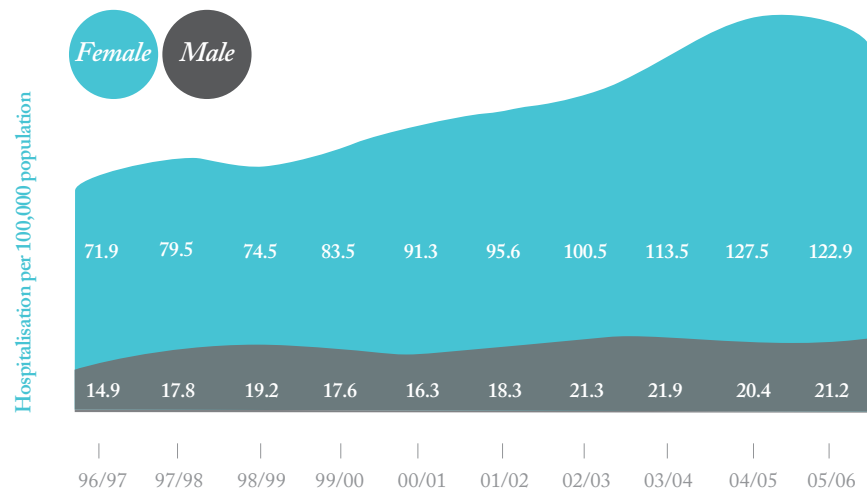
58. Data from the NSW Department of Health adds to the picture concerning psychological distress. Between 1996 and 2002, levels of severe unhappiness, sadness or depression in girls in the last six months, increased from 13.9% to 16.5%: Centre for Epidemiology and Research, NSW Department of Health, *The Health Behaviours of Secondary School Students in New South Wales 2002*, NSW Public Health Bulletin, vol 15 no S-2 (August, 2004) 31-32. A student who responded 'almost more than I can take' to any of the 3 problems indicating psychological distress was classified as experiencing a high level of distress. In 2005, the figure was 15.7%: Centre for Epidemiology and Research, *New South Wales School Students Health Behaviours Survey: 2005 report* (NSW Department of Health, 2007) 106. However, in 2008, the proportion had decreased to 9.4% of girls: Centre for Epidemiology and Research, *New South Wales School Students Health Behaviours Survey: 2008 report* (NSW Department of Health, 2009) 65. It remains to be seen whether that improvement is maintained.

59. Muir et al, above n 5, 98.

60. Australian Institute of Health and Welfare, *Injury among Young Australians*, Bulletin 60 (May 2008). US scholars D Miller and S Brock, in *Identifying, Assessing, and Treating Self-Injury at School* (Springer, 2010) 25, also note that more students engaging in self-harm are coming to the attention of adults.

61. It was explained in an email from Australian Institute of Health and Welfare, Children, Youth and Families Unit, Social & Indigenous Group, Canberra, 11 April 2011, that the data for the two figures on self-harm were derived from data extracted for the publication Australian Institute of Health and Welfare, above n 60. The author of the email added: An approximation method has been used to reduce over-counting of injury cases, by omitting records in which the mode of admission is recorded as being a transfer from another acute-care hospital. These records have been excluded, as they are likely to result in multiple counts of the one injury case. The criteria used to select injury hospital separations was a principal diagnosis in the ICD-9-CM range 800-999 (1996-97 to 1997-98) or in the ICD-10-AM range S00-T98 (1998-99 to 2005-06). Specific causes of injury hospital separation (for example, intentional self-harm) are further classified according to external cause codes. As multiple external causes can be recorded, only the first reported external cause per separation was selected (that is, one external cause per injury hospital separation). Methods for performing analysis on injury hospital separations have been modified since this data was extracted for the publication Australian Institute of Health and Welfare, above n 60.

Figure 3: Intentional self-harm hospital separations for 12-14 year olds (per 100,000 population), 1996-7 to 2005-6



Note: ICD-9-CM principal diagnosis code 800-999 and external cause code E950-E959 (1996-97 to 1997-98) and ICD-10-AM principal diagnosis code S00-T98 and external cause code X60-X84 (1998-99 to 2005-06)

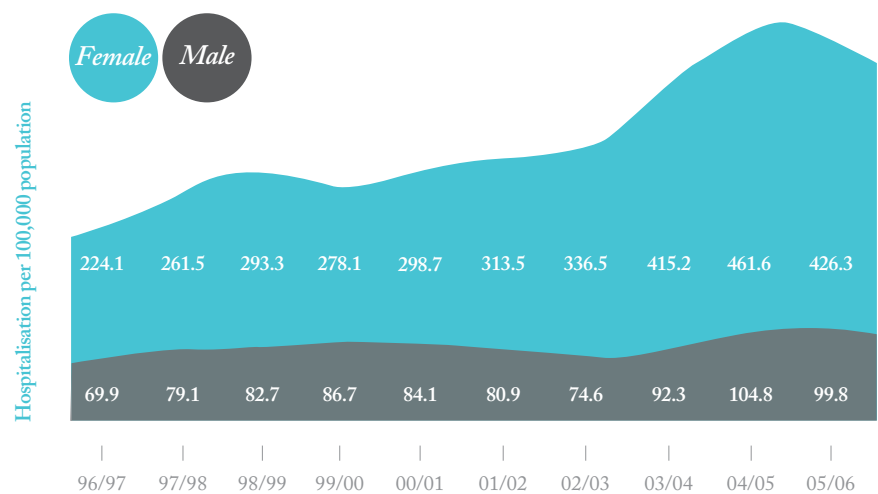
Source: Australian Institute of Health and Welfare *National Hospital Morbidity Database*

Figure 4 shows the increase in self-harm hospitalisation rates for 15-17 year olds.⁶² There has been a 90% rise in self-harm incidents for girls leading to hospitalisation in this age group, and a 78% increase overall, in just ten years.⁶³ In this age group, self-harm by girls is more than four times the rate for boys.

62. See above n 61.

63. Taking the numbers for boys and girls together, the increase is from 145 per 100,000 young people in the population to over 258 per 100,000 young people.

Figure 4: Intentional self-harm hospital separations for 15-17 year olds (per 100,000 population), 1996-7 to 2005-6



Note: ICD-9-CM principal diagnosis code 800-999 and external cause code E950-E959 (1996-97 to 1997-98) and ICD-10-AM principal diagnosis code S00-T98 and external cause code X60-X84 (1998-99 to 2005-06)

Source: Australian Institute of Health and Welfare *National Hospital Morbidity Database*

There are not large numbers of young people who are being hospitalised for self-harm, but it is the dramatic increase in just a few years that is so concerning.

Data from Queensland also shows an increase in suicides among 15-17 year olds, rising from 3.7 per 100,000 in 2004, to 8.4 per 100,000 just three years later, in 2007.⁶⁴ National statistics indicate a decline in youth suicide overall over the last decade, especially for young males.⁶⁵ While this is very welcome, the reliability of these statistics has been strongly contested,⁶⁶ and it does not reflect the broader trends in self-harming behaviour.⁶⁷ In fact, the Australian Bureau of Statistics' final reanalysis of its suicide figures for 2007 confirmed an undercounting in previous reports.⁶⁸ The majority of young people who suicide are male, whereas young women account for most of the non-lethal self-harm incidents.

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64. Commission for Children and Young People and Child Guardian, *Reducing Youth Suicide in Queensland*, Discussion Paper (2009). See also the current research of D De Leo and K Kolves, *Trends and Predictors of Suicide in Australian Children*, Australian Institute for Suicide Research and Prevention, Griffith University <<http://www.griffith.edu.au/health/australian-institute-suicide-research-prevention/research>>.
65. S McPhedran and J Baker, 'Recent Australian Suicide Trends for Males and Females at the National Level: Has the rate of decline differed?' (2008) 87 *Health Policy* 350-358; S Morrell, A Page and R Taylor, 'The Decline in Australian Young Male Suicide' (2007) 64 *Social Science & Medicine* 747-754.
66. D De Leo, 'Australia Revises its Mortality Data on Suicide' (Editorial) (2010) 31 *Crisis* 169-173; D De Leo, M Dudley, C Aebersold, J Mendoza, M Barnes, J Harrison and D Ranson, 'Achieving Standardised Reporting of Suicide in Australia: Rationale and program for change' (2010) 192 *Medical Journal of Australia* 452-456; J Harrison, S Pointer and A A Elnour, *A Review of Suicide Statistics in Australia*, Cat no INJCAT 121 (Australian Institute of Health and Welfare, 2009) 82; D De Leo, 'Suicide Mortality Data Needs Revision' (2007) 186 *Medical Journal of Australia* 157-158. There was actually an increase in attempted suicides across the population as a whole between 1997 and 2007 despite the data recording a decline in completed suicides: M Large and O Nielssen, 'Suicide in Australia: Meta-analysis of rates and methods of suicide between 1988 and 2007' (2010) 192 *Medical Journal of Australia* 432-437.
67. R Eckersley, 'A New Narrative of Young People's Health and Wellbeing' (2011) 14 *Journal of Youth Studies* 627-638.
68. In 2009, the Australian Bureau of Statistics released suicide figures for the 2007 reporting year, finding a total of 96 completed suicides by persons aged 15-19, at a rate of 6.7 per 100,000 for that group (Australian Bureau of Statistics, *Suicide* (30 March 2010) <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3303.02007?OpenDocument>>). Revised figures for 2007 were later released in 2010, raising the number of suicides to 112, leading to an increase in the rate per 100,000 to 7.7 for that age group (Australian Bureau of Statistics, *Suicide (Australia)* (2 May 2011), <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3303.02008?OpenDocument>>). Most recently in 2011, final suicide figures for 2007 were released, bringing the total to 116, at a rate of 8.0 per 100,000 for persons aged 15-19 (Australian Bureau of Statistics, *Suicide (Australia)* (12 May 2011), <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3303.02009?OpenDocument>>). In respect of the ABS revision of suicide data, see Australian Bureau of Statistics, *Causes of Death*, 2009, Cat no 3303.0 (2011) 25.

Binge drinking

Psychological distress can also manifest itself in risky and damaging behaviour. An example of this is binge drinking. Although alcohol consumption by children and young people has declined a little in recent years,⁶⁹ and significant progress has been made in reducing the levels of risky drinking by those under 18,⁷⁰ children are having their first alcoholic drink at a younger and younger age,⁷¹ and dangerous binge drinking by young people seems to have increased. A study by La Trobe University found that while in 2002, 10.7% of year 10 female students consumed seven or more drinks on any one day of drinking, by 2008, the proportion had risen to 12.9%. For year 12 female students, the increase was from 15.9% to 21.4%. The increase was more dramatic still for year 12 females having five or six drinks in a day. The percentage increased from 16.9% of year 12 female students in 2002, to 32.1% by 2008.⁷²

This dangerous level of drinking is reflected in an increase in levels of hospitalisation due to alcohol. The Australian Bureau of Statistics has reported that for young men aged 15–24, the hospital separation rate for acute alcohol intoxication increased from 66 per 100,000 in 1998–99 to 107 per 100,000 in 2005–06.⁷³ The increase in hospitalisations for young women was even greater. The rate more than doubled over this time from 46 hospitalisations per 100,000 in 1998–99 to 99 per 100,000 in 2005–06. This trend is reflected also in other studies of hospital admissions in New South Wales⁷⁴ and Victoria.⁷⁵

69. Australian Institute of Health and Welfare, *Drinking Patterns in Australia, 2001–2007*, Cat no PHE 133 (2010) 1; Centre for Epidemiology and Research, *New South Wales School Students Health Behaviours Survey: 2008 report*, above n 58, 175.

70. Australian Institute of Health and Welfare, above n 69, 7–10. See also V White and G Smith, *Victorian Secondary School Students' Use of Licit and Illicit Substances in 2008: Results from the 2008 Australian Secondary Students' Alcohol and Drug Survey* (Victorian Government Department of Health, 2010); V White and G Smith, *Australian Secondary School Students' Use of Tobacco, Alcohol, and Over-the-counter and Illicit Substances in 2008* (Australian Government Department of Health and Ageing, 2009). 'Risky drinking' among Australian adolescents has to date been measured by 2001 adult guidelines, published by the National Health and Medical Research Council. These guidelines were reconceptualised in 2009: 'the [2009] guidelines introduce the concept of progressively increasing risk of harm with the amount of alcohol consumed, rather than specifying 'risky' and 'high risk' levels of drinking above guideline levels', as the 2001 guidelines did (National Health and Medical Research Council, *Australian Guidelines to Reduce Health Risks from Drinking Alcohol* (Commonwealth of Australia, February 2009) 7). The guidelines are evidence based, and although the 2001 guidelines did not support adolescent consumption of alcohol, they took it as a given that some would choose to drink and consequently sought to regulate it, whereas the 2009 guidelines emphasise abstinence (National Health and Medical Research Council, *Australian Alcohol Guidelines: Health risks and benefits (endorsed October 2001)* (Commonwealth of Australia, 2001) 15; National Health and Medical Research Council, *Australian Guidelines to Reduce Health Risks from Drinking Alcohol* (Commonwealth of Australia, February 2009) 57; E Moore, C Coffey, J Carlin, R Alati and G Patton, 'Assessing Alcohol Guidelines in Teenagers: Results from a 10-year prospective study' (2009) 33 *Australian and New Zealand Journal of Public Health* 154–159). Analyses of pre-2009 data undertaken after the release of the 2009 guidelines utilised the out-dated guidelines because they were current at the time of data collection, and in order to enable comparisons with previous analyses (see eg Australian Institute of Health and Welfare, above n 5, box 16.1; R Haynes, R Kalic, P Griffiths, C McGregor and A Gunnell, *Australian School Student Alcohol and Drug Survey: Alcohol Report 2008: Western Australian results*, Drug and Alcohol Surveillance Report No 2 (Drug and Alcohol Office, 2010) 11, 34).

71. A Roche, P Bywood, J Borlagdan, B Lunnay, T Freeman, L Lawton, A Tovell and R Nicholas, *Young People and Alcohol: The role of cultural influences* (National Centre for Education and Training on Addiction, 2007) 31–32.

72. A Smith, P Agius, A Mitchell, C Barrett and M Pitts, *Secondary Students and Sexual Health 2008*, Monograph Series No 70 (Australian Research Centre in Sex, Health & Society, La Trobe University, 2009) 55. Sixty per cent of female year 12 students in 2008 reported three or more binge drinking sessions in the two weeks prior to the survey, an increase from 27% in 2002. In this context, binge drinking was defined as having three or more alcoholic drinks on any one occasion: *ibid*.

73. Australian Bureau of Statistics, *Australian Social Trends, 2008*, Cat no 4102.0 (2008).

74. D Muscatello, S Thackway, D Belshaw and D McGrath, 'What Can Public Health Surveillance of Emergency Department Presentations for Acute Alcohol Problems Tell Us about Social Trends in Drinking Behaviour?' (2009) 191 *Medical Journal of Australia* 237–238.

75. M Livingston, 'Recent Trends in Risky Alcohol Consumption and Related Harm among Young People in Victoria, Australia' (2008) 32 *Australian and New Zealand Journal of Public Health* 266–271.

- A factor in the increased incidence of premature sexual activity and unwanted sex may well be the increased sexualisation of young people due to exposure to pornography before the age of 16.

Risky sexual behaviour

Another adverse trend is in terms of risky sexual behaviour among younger teenagers. Teenagers are engaging in sexual acts at a younger age and with more people today than they did in previous generations.⁷⁶ This includes an increase in sexual acts apart from vaginal intercourse, such as oral sex.⁷⁷ Kang, Skinner and Underwood summarise the evidence, and the risks associated with this early sexual activity:⁷⁸

“The median age of first vaginal intercourse among Australia’s youth population today is 16 years, which is earlier than in previous generations. Like young people in other developed countries, young sexually active Australians are more likely to have multiple partners, unprotected sex and high-risk partners, with poorer access to services compared with adults, all of which puts them at an increased risk of acquiring and transmitting sexually transmissible infections (STIs).”

Sexually transmitted infections

One of those risks is genital chlamydia. This is the most frequently notified STI in Australia. There has been a considerable increase in rates of infection amongst children and young people aged 10–19 since national data was first collected in 1999.⁷⁹ In the 10–14 year old age group, there has been almost a fourfold increase in just over ten years, despite a decrease in prevalence among Aboriginal and Torres Strait Islander children under 15.⁸⁰ There was a particularly large increase between 2009 and 2010.⁸¹

76. M Kang, R Skinner and T Foran, ‘Sex, Contraception and Health’ (2007) 36 *Australian Family Physician* 594–600, 594 (‘In Australia, the age of sexual debut has fallen over the past 3–4 decades. The average age of first intercourse for males and females is 16–17 years of age and teenagers today have more partners than in previous generations. Young women particularly are at greater risk of unintended conceptions and STIs due to biological vulnerability, normal developmental processes, and social and cultural influences.’) See also Smith et al, above n 72, 4 (‘... available evidence suggested that the age of first sexual experience had been declining for some decades, as had been reflected in the previous surveys. ... Continuing themes include young people’s sexual behaviour and condom use and the apparent increase in sexual partner numbers.’)

77. Smith et al, above n 72, 4 (‘One of the emerging issues was the apparent increase in oral sex that was occurring outside the context of a sexual encounter involving sexual intercourse.’); Kang et al, above n 76, 594 (‘... also an increase in oral sex practices among young people.’)

78. M Kang, R Skinner and T Underwood, ‘Interventions for Young People in Australia to Reduce HIV and Sexually Transmissible Infections: A systematic review’ (2010) 7 *Sexual Health* 107–128, 107 (references omitted).

79. Australian Government Department of Health and Ageing, *National Notifiable Diseases Surveillance System* (2011) <http://www9.health.gov.au/cda/Source/Rpt_2_sel.cfm>.

80. See National Centre in HIV Epidemiology and Clinical Research, *HIV, Viral Hepatitis and Sexually Transmissible Infections in Australia: Annual Surveillance Report 2010* (University of New South Wales, 2010) 80, tbl 3.2.2.

81. Ibid. The reported incidence of infection for girls in this age group rose from 69.4 per 100,000 population in 2009 to over 90 per 100,000 in 2010.

It is not clear to what extent this represents a real increase in infections, and to what extent the increase can be explained by targeted testing of at-risk groups.⁸² Among sexually active 16 to 29 year old Australians, the national rates of chlamydia testing through a consultation with a General Practitioner were 12.5 per 100 for females and 3.7 for males. For the narrower age group of 16 to 19, the testing rate was 8.7 per 100.⁸³ Whatever the explanation, the reported rate of chlamydial infection is likely to reflect only a fraction of the real incidence, because chlamydia is frequently asymptomatic. The consequence is that it is likely to go undetected and untreated. Yet untreated infections in women can lead to serious complications causing irreversible damage, including infertility.⁸⁴ While any sexually active person can be infected with chlamydia, sexually active teenage girls are at particularly high risk for infection because the cervix is not fully matured and is more susceptible to infection.⁸⁵

Unwanted sex

Another negative impact of the changes in teenage sexuality is an increase in the number of teenage girls reporting unwanted sex. A survey of thousands of secondary school students conducted in 2002 and repeated in 2008 found that the number of young women experiencing unwanted sex rose from 28% to 38%. The most common reasons for unwanted sex were being drunk or because of pressure from her partner.⁸⁶

A factor in the increased incidence of premature sexual activity and unwanted sex may well be the increased sexualisation of young people due to exposure to pornography before the age of 16. This is but one aspect of a broader cultural problem resulting in the aggressive sexualisation of children.⁸⁷ In a study of 1,000 consumers of pornography, researchers examined whether more recent cohorts of Australians were being exposed to pornography for the first time while under the age of 16 than previous cohorts. The research team asked respondents at what age they had first encountered pornography.⁸⁸ With the exception of the small number who were aged 66 and over, each generation saw pornography earlier than the generation before it.

82. Ibid 27-28.

83. F Kong, R Guy, J Hocking, T Merritt, M Pirotta, C Heal, I Bergeri, B Donovan and M Hellard, 'Australian General Practitioner Chlamydia Testing Rates among Young People' (2011) 194 *Medical Journal of Australia* 249-252, box 3.

84. For further information, see for example the Queensland government's website: Queensland Health, *Topic: Chlamydia* (17 March 2011) Queensland Government <http://access.health.qld.gov.au/hid/InfectionsandParasites/SexuallyTransmittedDiseases/chlamydia_fs.asp>.

85. Centers for Disease Control and Prevention, *Sexually Transmitted Diseases (STDs): Chlamydia - CDC Fact Sheet* (25 March 2011) <<http://www.cdc.gov/std/chlamydia/stdfact-chlamydia.htm>>.

86. Smith et al, above n 72, 31-32. Research in New Zealand has shown an association between early onset of drinking, binge drinking in high school, and unsafe, unhappy or unwanted sexual experiences at university: see J Connor, A Gray and K Kypri, 'Drinking History, Current Drinking and Problematic Sexual Experiences among University Students' (2010) 34 *Australian and New Zealand Journal of Public Health* 487-494.

87. Senate, Legal and Constitutional Affairs Committee, Parliament of Australia, *Review of the National Classification Scheme: Achieving the right balance* (June 2011) ch 11; M Tankard Reist (ed), *Getting Real: Challenging the sexualisation of girls* (Spinifex, 2009); Senate Standing Committee on Environment, Communications and the Arts, Parliament of Australia, *Sexualisation of Children in the Contemporary Media* (June 2008). For a UK perspective, see R Bailey, *Letting Children be Children: Report of an Independent Review of the Commercialisation and Sexualisation of Childhood* (Department for Education, June 2011) and L Papadopoulos, *Sexualisation of Young People: Review* (2010). For a Scottish perspective, see Scottish Parliament, *External Research on Sexualised Goods Aimed at Children*, Scottish Parliament Paper 374 (2010), incorporating D Buckingham, R Willett, S Bragg and R Russell, *Sexualised Goods Aimed at Children*, Report to the Scottish Parliament Equal Opportunities Committee (2010). For a US perspective, see American Psychological Association, Task Force on the Sexualization of Girls, *Report of the APA Task Force on the Sexualization of Girls* (revised ed, 2010).

88. A McKee, K Albury and C Lumby, *The Porn Report* (Melbourne University Press, 2008) 37.

Table 4: Exposure to pornography before the age of 16

Current age	Under 16 when?	Percentage who first saw pornography under the age of 16
66+	1950s or previous	36.7%
56-65	1950s, early 1960s	22.8%
46-55	1960s, early 1970s	35.7%
36-45	1970s, early 1980s	58.7%
26-35	1980s, early 1990s	77.4%
19-25	1990s-2001	79.2%

Source: McKee et al, *The Porn Report*⁸⁹

It is likely that the increased availability of access to the internet has increased the overall levels of exposure to pornography for those under 16, since 2001.⁹⁰

Teenage pregnancy

Another outcome of increased sexual activity amongst children under 16 is an increased risk of pregnancy. Data from a large-scale national survey of teenage sexual activity in 2008 found that 8% of sexually active year 10 students reported that sex had resulted in a pregnancy.⁹¹

There has been an increase in births to girls aged 15 and under in recent years, reversing a long-standing trend since the mid-1970s of declining fertility rates for girls aged 15 and under.⁹² The numbers are not large, but the trend is concerning.⁹³ Having remained well below 400 for most of the decade,⁹⁴ in 2007 it reached 427,⁹⁵ in 2008, 439⁹⁶ and in 2009, 483.⁹⁷ The Social Policy Research Centre at the University of New South Wales has well summarised some of the adverse consequences of births to teenagers:⁹⁸

“Teenage pregnancy is associated with poor health and socio economic outcomes. Teenage pregnancies have an increased risk of pre-term delivery, infant mortality and low birth weight and teenage mothers often find it difficult to complete their education, have less financial resources than older parents and have children with poor health.”

89. Reproduced from ibid fig 2.1.

90. M Flood, 'The Harms of Pornography Exposure among Children and Young People' (2009) 18 *Child Abuse Review* 384-400; M Flood, 'Exposure to Pornography among Youth in Australia' (2007) 43 *Journal of Sociology* 45-60; M Flood and C Hamilton, *Regulating Youth Access to Pornography*, Discussion Paper No 53 (The Australia Institute, 2003); M Flood and C Hamilton, *Youth and Pornography in Australia: Evidence on the extent of exposure and likely effects*, Discussion Paper No 52 (The Australia Institute, 2003).

91. Smith et al, above n 72, 32.

92. Australian Bureau of Statistics, TABLE 10: *Age-specific fertility rates and total fertility rates, Single year of age of mother, Australia—1975 to 2009* (9 March 2011) <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3301.02009?OpenDocument>>.

93. On the possible effects of the 'baby bonus' on teenage births, see below, chapter 8.

94. In 2003, for example, there were 376 births (Australian Bureau of Statistics, *Births, Australia, 2003*, Cat no 3301.0 (2004) tbl 5.3) and in 2006, 342 (Australian Bureau of Statistics, *Births, Australia, 2006*, Cat no 3301.0 (2007) tbl 7.3).

95. Australian Bureau of Statistics, TABLE 6: *Births, Nuptiality and age of parents, Australia—2008* (11 November 2009) <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3301.02007?OpenDocument>>.

96. Australian Bureau of Statistics, TABLE 6: *Births, Nuptiality and age of parents, Australia—2008* (7 March 2011) <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3301.02008?OpenDocument>>.

97. Australian Bureau of Statistics, TABLE 6: *Births, Nuptiality and age of parents, Australia—2009* (9 March 2011) <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3301.02009?OpenDocument>>.

98. Muir et al, above n 5, 114.

Live births, of course, tell only one part of the story of teenage pregnancies. Miscarriages,⁹⁹ still-births and abortion are also potential outcomes. Unfortunately, national abortion statistics are not collected at all, let alone statistics on the youngest of those involved. The most recent estimates date back to 2004.¹⁰⁰ However, data is collected in South Australia and Western Australia. In South Australia, the statistics indicate that the combined total of abortions and live births for girls under 15 has remained reasonably stable over the decade,¹⁰¹ but in Western Australia, the position is different. In that State, while the number of girls aged under 15 giving birth has remained stable, the number of induced abortions has almost doubled since the early years of the decade.

Table 5: Under 15 terminations, Western Australia, 2002-05, 2009

Year	Number of abortions	Number of live births	Abortion proportion (abortions/(abortions + live births)) ¹⁰²
2002	23	18	56.1
2003	20	15	57.1
2004	35	16	68.6
2005	37	15	71.2
2006	-	-	-
2007	-	-	-
2008	-	-	-
2009	44	16	73.3

Source: Western Australian Abortion Notification System, and news.com.au report¹⁰³

99. In one representative Australian sample, miscarriages accounted for a significant minority of pregnancy outcomes among 16-19 year old girls: A Smith, C Rissel, J Richters, A Grulich and R de Visser, 'Sex in Australia: Reproductive experiences and reproductive health among a representative sample of women' (2003) 27 *Australian and New Zealand Journal of Public Health* 204-209.

100. Email from Australian Institute of Health and Welfare's National Perinatal Statistics Unit, Perinatal and Reproductive Epidemiology Research Unit, NSW, 10 December 2010. See also A Pratt, A Biggs and L Buckmaster, 'How Many Abortions are there in Australia? A discussion of abortion statistics, their limitations, and options for improved statistical collection' (Research Brief No 9, Parliamentary Library, Parliament of Australia, 2004-05).

101. For 2001 to 2008 figures, see the *Pregnancy Outcome in South Australia* annual reports: Pregnancy Outcome Statistics Unit, Epidemiology Branch, *Pregnancy Outcome Statistics Unit* (2010) Department of Health, Government of South Australia <<http://www.health.sa.gov.au/pehs/pregnancyoutcome.htm>>.

102. 'The abortion proportion is expressed as the number of abortions per 100 (abortions plus livebirths). While the figure "abortions plus live births" clearly does not include *all* pregnancies (miscarriages and stillbirths are not included), it has been used here because it is the international standard way of reporting the abortion proportion': J Straton, K Godman, V Gee and Q Hu, *Induced Abortion in Western Australia 1999-2005: Report of the WA Abortion Notification System* (Department of Health Western Australia, 2006) 3.1.3.

103. For the years 2002-2005, see *ibid* tbl 4a. For abortions in 2009, see A Deceglie, 'Record Number of Young WA Girls are Having Abortions', *news.com.au* (online), 14 August 2010 <http://www.news.com.au/record-number-of-young-girls-are-having-abortion/story-e6frg153-1225905238250?from=public_rss>. While the number of live births to those under 15 has remained stable, once 15 year olds are included, the position is different. There has been a 17% rise in live births to girls under 16 in the last five years. See L Cann, 'Under-age Births Up in WA', *Perth Now* (online), 12 March 2011 <<http://www.perthnow.com.au/news/under-age-births-up-in-wa/story-e6frg12c-1226020342415>>.

Increases in juvenile offending

Today's juveniles are offending at a higher rate than their peers did during the mid-1990s¹⁰⁴. Although offending rates have been consistently climbing for both male and female juveniles since 2005, the rate of increase has been greater for females.¹⁰⁵ This picture is reflected in New South Wales, where female juvenile offenders numbered 6,528 in 1999–2000, and 8,901 in 2008–2009. This 36% increase in female offenders dwarfed the 8% increase for juvenile males across the same period, which rose from 27,383 to 29,664.¹⁰⁶

This increase in juvenile offending, particularly by females, is not surprising given the data on increasing reports of child maltreatment in the last decade across Australia. There is a strong association between child maltreatment and juvenile delinquency.¹⁰⁷ While most victims of child abuse do not go on to offend as adolescents, the proportion of juvenile offenders who have a history of reported maltreatment as children is high.¹⁰⁸ This is particularly so for young female offenders.¹⁰⁹

Furthermore, in a recent study of young people in juvenile detention, the great majority had a diagnosed psychological disorder.¹¹⁰ To the extent that child maltreatment is increasing, and adolescent mental health declining, it is to be expected that there will be an increase in juvenile offending, especially among young women.

International perspectives: The deterioration in adolescent mental health

This is not just an Australian problem. The available evidence indicates that there has been a serious deterioration in the mental health and wellbeing of young people in western countries over generations. Tracking trends in mental health is not straightforward because of methodological problems, and because many mental health problems in the past may have gone undiagnosed or untreated.

104. Australian Institute of Criminology, *Australian Crime: Facts and figures* (2010) 66.

105. *Ibid* 67.

106. J Holmes, Female Offending: *Has there been an increase?*, Issue paper no 46 (NSW Bureau of Crime Statistics and Research, April 2010) 6.

107. A Stewart, M Livingston and S Dennison, 'Transitions and Turning Points: Examining the links between child maltreatment and juvenile offending' (2008) 32 *Child Abuse & Neglect* 51–66; H Swanston, P Parkinson, B O'Toole, A Plunkett and K Oates, 'Juvenile Crime, Aggression and Delinquency after Sexual Abuse: A longitudinal study' (2003) 43 *British Journal of Criminology* 729–749; A Stewart, S Dennison and E Waterson, *Pathways from Child Maltreatment to Juvenile Offending*, Trends and Issues Paper No 241 (Australian Institute of Criminology, 2002); D Weatherburn and B Lind, *Social and Economic Stress, Child Neglect and Juvenile Delinquency* (New South Wales Bureau of Crime Statistics and Research, 1997); C Smith and T Thornberry, 'The Relationship between Childhood Maltreatment and Adolescent Involvement in Delinquency' (1995) 33 *Criminology* 451–481; C Widom, 'Child Abuse, Neglect and Violent Criminal Behavior' (1989) 27 *Criminology* 251–271.

108. J Cashmore, 'The Link between Child Maltreatment and Adolescent Offending: Systems neglect of adolescents' (2011, in press).

109. D Indig, C Vecchiato, L Haysom, R Beilby, J Carter, U Champion, C Gaskin, E Heller, S Kumar, N Mamone, P Muir, P van den Dolder and G Whitton, 2009 *NSW Young People in Custody Health Survey: Full report* (Justice Health and Juvenile Justice, Sydney, 2011); K Bender, 'Why do some Maltreated Youth become Juvenile Offenders?' (2010) 32 *Children and Youth Services* 466–473.

110. Indig et al, above n 109.

The most reliable studies use the same self-administered instrument on socially and geographically comparable groups of young people across a substantial period of time. While adverse trends are not observable in every study,¹¹¹ there is some compelling evidence now that adolescent mental health problems have been increasing significantly over time. This evidence comes in particular from the most recently published studies.

One important study was published in 2010. In this US study, researchers conducted the most comprehensive analysis to date of data collected through the widely used Minnesota Multiphasic Personality Inventory (MMPI) test.¹¹² The researchers examined data collected from college students between 1938 and 2007. They found that each generation had experienced poorer mental health than the previous one. At least five times as many college students in 2007 as in 1938 had measures indicating psychopathology on the various elements included in that test. These included measures of hypomania, schizophrenia, psychopathic deviation, paranoia and depression. On many of these measures, by 2007, the increases were dramatic. This substantial increase in mental disorders was clear even after controlling for a greater willingness over time to acknowledge the presence of mental health issues. There were no significant differences in terms of gender or region. The researchers noted that their findings might actually underestimate the increase in psychopathology, given the numbers of Americans taking antidepressants. They suggested that samples from more recent years probably included more individuals already stabilised by such medication.

A smaller sample of high school students, comparing results on the same test, found similar declines in mental health. Between 1985 and 2002, there were marked increases in the incidence of hysteria, depression, hypochondriasis and paranoia. The results from the high school population indicate that the decline in mental health begins at least by mid-adolescence.

The researchers found that the increase occurred steadily and irrespective of economic crests and troughs. It was most strongly correlated with an increase in extrinsic values and a decline in intrinsic values. Extrinsic values are material and individualistic values such as being well-off financially and attaining career success. Intrinsic values include placing importance on close relationships and having a meaningful philosophy of life. The deterioration of the mental health of college students was significantly and positively correlated with the percentage of college students agreeing it was very important to be well-off financially. It was also significantly and negatively correlated with the number of students saying that developing a meaningful philosophy of life was important. That is, as materialistic values among college students increased, and fewer showed an interest in values concerned with meaning and purpose, so the mental health of American college students deteriorated. The researchers also found that the divorce rate was positively and significantly correlated with scores on *all* of the clinical scales.

111. For a review, see H Sweeting, R Young and P West, 'GHQ Increases among Scottish 15 Year Olds 1987–2006' (2009) 44 *Social Psychiatry and Psychiatric Epidemiology* 579–586.

112. J Twenge, B Gentile, C Nathan DeWall, D Ma, K Lacefield and D Schurtz, 'Birth Cohort Increases in Psychopathology among Young Americans, 1938–2007: A cross-temporal meta-analysis of the MMPI' (2010) 30 *Clinical Psychology Review* 145–154.

The researchers concluded:¹¹³

“These data suggest that the rise in psychopathology has coincided with greater importance placed on extrinsic goals such as material wealth and less importance on intrinsic goals such as affiliation. ... As American culture shifted toward emphasizing individual achievement, money, and status rather than social relationships and community, psychopathology increased among young people.”

The increase in mental health problems has also been noted in many other studies of US trend data.¹¹⁴ Evidence of a significant decline in the mental health and wellbeing of young people also comes from numerous other studies in European countries.¹¹⁵ For example, an English study found a substantial increase in adolescent emotional problems between 1986 and 2006.¹¹⁶ In 1986 and 2006, identical instruments surveying a broad range of individual symptoms of depression and anxiety were administered to a nationally representative group of UK parents and 16-17 year old young people. Parents of both boys and girls reported that depressed mood, sleep disturbance and worry were more prevalent in 2006, compared with 1986. Both boys and girls reported experiencing increases in irritable moods, sleep disturbances and feeling worn out or under strain. Girls also reported greater levels of fatigue and worry. The proportions of boys and girls reporting frequent anxiety or depression doubled between 1986 and 2006. The proportions of girls reporting more than 5 or more symptoms, increased from 7% in 1986 to 15% in 2006.

113. Ibid 152.

114. C Newsom, R Archer, S Trumbetta and I Gottesman, ‘Changes in Adolescent Response Patterns on the MMPI/MMPI-A Across Four Decades’ (2003) 81 *Journal of Personality Assessment* 74-84; R Swindle, K Heller, B Pescosolido and S Kikuzawa, ‘Responses to Nervous Breakdowns in America over a 40-year Period’ (2000) 55 *American Psychologist* 740-749; J Twenge, ‘The Age of Anxiety? Birth cohort change in anxiety and neuroticism, 1952-1993’ (2000) 79 *Journal of Personality and Social Psychology* 1007-1021; G Klerman and M Weissman, ‘Increasing Rates of Depression’ (1989) 261 *Journal of the American Medical Association* 2229-2235.

115. S Eimecke, J Pauschardt, H Remschmidt, R Walter and F Mattejat, ‘Time Trends in Psychopathology: A 21-year comparison from Germany’ (2011) 39 *Zeitschrift für Kinder- und Jugendpsychiatrie und Psychotherapie* 187-195; K Kosidou, C Magnusson, E Mittendorfer-Rutz, J Hallqvist, C H Gumpert, S Idrizbegovic, H Dal and C Dalman, ‘Recent Time Trends in Levels of Self-reported Anxiety, Mental Health Service Use and Suicidal Behaviour in Stockholm’ (2009) 122 *Acta Psychiatrica Scandinavica* 47-55; N Tick, J van der Ende and F Verhulst, ‘Ten-year Trends in Self-reported Emotional and Behavioral Problems of Dutch Children’ (2008) 43 *Social Psychiatry and Psychiatric Epidemiology* 349-355; N Tick, J van der Ende and F Verhulst, ‘Twenty-year Trends in Emotional and Behavioural Problems in Dutch Children in a Changing Society’ (2007) 116 *Acta Psychiatrica Scandinavica* 473-482; A Hjern, ‘Chapter 7: Children’s and young people’s health’ (2006) 34 *Scandinavian Journal of Public Health* 165-183; M Fichter, F Xepapadakos, N Quadflieg, E Georgopoulou and W Fthenakis, ‘A Comparative Study of Psychopathology in Greek Adolescents in Germany and in Greece in 1980 and 1998 – 18 years apart’ (2004) 254 *European Archives of Psychiatry and Clinical Neuroscience* 27-35; A Sourander, P Santalahti, A Haavisto, J Piha, K Ikäheimo and H Helenius, ‘Have there been Changes in Children’s Psychiatric Symptoms and Mental Health Service Use? A 10-year comparison from Finland’ (2004) 43 *Journal of the American Academy of Child & Adolescent Psychiatry* 1134-1145; E Fombonne, ‘Increased Rates of Psychosocial Disorders in Youth’ (1998) 248 *European Archives of Psychiatry and Clinical Neuroscience* 14-21; M Rutter and D Smith (eds), *Psychosocial Disorders in Young People: Time trends and their causes* (Wiley, 1995).

116. S Collishaw, B Maughan, L Natarajan and A Pickles, ‘Trends in Adolescent Emotional Problems in England: A comparison of two national cohorts twenty years apart’ (2010) 51 *Journal of Child Psychology and Psychiatry* 885-894.

A Scottish study found similar evidence. Researchers analysed responses from 15 year olds in the vicinity of Glasgow to the General Health Questionnaire, a measure of self-reported psychological distress, in 1987, 1999 and 2006. They found a significant increase in what clinicians call ‘caseness’, that is, the score on a standardised test which is sufficient to justify a diagnosis of problems requiring clinical intervention. The researchers found significant increases in the numbers of both boys and girls satisfying these diagnostic criteria between 1987 and 2006. Even using the most stringent cut-off for diagnosis,¹¹⁷ the rate for males was 10.2% (three times that in 1987) and for females, 26.7% (four times that in 1987). Adverse scores on some individual items increased much more markedly over time than others. For example, endorsement of ‘thinking of yourself as a worthless person’ rather or much more than usual was around four times more likely in 2006 than in 1987, while being less or much less ‘able to concentrate on whatever you’re doing’ was around five times higher.

The international trends have been recognised by UNICEF, which in a 2011 report, concluded that internationally, the prevalence of mental disorders among adolescents has increased in the past 20–30 years.¹¹⁸

There is not comparable longitudinal data for adolescents in Australia,¹¹⁹ but the dramatic increase in hospitalisations for self-harm by girls, the overall levels of psychological distress and the increase in risky behaviours all point to the fact that Australian trends are consistent with the international picture.¹²⁰

117. A score of 4/5.

118. United Nations Children’s Fund (UNICEF), *The State of the World’s Children 2011: Adolescence: An Age of Opportunity* (February 2011) 27.

119. There is some data concerning young children. See S Smart and A Sanson, ‘Do Australian Children Have More Problems Today than Twenty Years Ago?’ (2008) 79 *Family Matters* 50–57. This study reports on children under 8, comparing findings in the 1980s with the current decade. The researchers reported: “According to parents, children of the 2000s were doing as well as children of the 1980s, and were a little easier in temperament style, and less inclined to show acting out and hyperactive behaviour or anxiety. According to teachers, children of the 2000s were slightly more likely to display conduct problems and hyperactivity than children of the 1980s, although they tended to be less anxious.” Ibid 57.

120. R Eckersley, ‘Troubled Youth: An island of misery in an ocean of happiness, or the tip of an iceberg of suffering?’ (2011) 5 *Early Intervention in Psychiatry* 6–11.

The intergenerational transmission of mental ill-health

Many mental disorders begin in childhood or adolescence.¹²¹ Roughly half of all lifetime mental disorders in most studies start by the mid-teens and three quarters by the mid-20s.¹²² Young people grow up to become parents. To the extent that their mental health problems continue into adult life, that is likely to affect the mental health of their own children. There is a great deal of evidence that parental mental illness impacts upon the next generation, creating a cascading effect in terms of mental ill-health.¹²³ For example, one large recent study found that participants with a depressed mother were 2.5 times as likely to experience a psychiatric disorder by young adulthood when compared with participants with a non-depressed mother, and participants with a depressed father were over 2 times as likely to experience a psychiatric disorder when compared with those with a non-depressed father.¹²⁴

Unless we can reverse the trend of declining mental health across the population, then the prognosis for the long-term is poor.

Adolescent problems and deterioration in the social environment

So what is happening? Why are things deteriorating so badly for a minority of young people? It would be tempting to see these problems as affecting just a small proportion of Australian young people, from families who are not like 'us'. Certainly, the children who are self-harming, suffering from sexually transmitted diseases or falling pregnant, represent only a relatively small minority of the population.

There are also some positive trends. There has been an encouraging decline in illicit drug use by young people.¹²⁵ This illustrates that when governments turn their attention to problems among Australia's young people, a turn-around, or at least a halt to the deterioration in circumstances, can be achieved. There are other problems, such as childhood obesity, which are attracting a significant amount of attention and financial resources, and which are likely to reduce the scale of the problem over time.

121. R Kessler, G Paul Amminger, S Aguilar-Gaxiola, J Alonso, S Lee and T Bedirhan Üstü, 'Age of Onset of Mental Disorders: A review of recent literature' (2007) 20 *Current Opinion in Psychiatry* 359-364; M Oakley Browne, J E Wells, K Scott and M McGee, 'Lifetime Prevalence and Projected Lifetime Risk of DSM-IV Disorders in Te Rau Hinengaro: The New Zealand Mental Health Survey' (2006) 40 *Australian and New Zealand Journal of Psychiatry* 865-874.

122. Kessler et al, above n 121.

123. M Weissman, P Wickramaratne, Y Nomura, V Warner, D Pilowsky and H Verdelli, 'Offspring of Depressed Parents: 20 years later' (2010) 163 *The American Journal of Psychiatry* 1001-1008; J Micco, A Henin, E Mick, S Kim, C Hopkins, J Biederman and D Hirshfeld-Becker, 'Anxiety and Depressive Disorders in Offspring at High Risk for Anxiety: A meta-analysis' (2009) 23 *Journal of Anxiety Disorders* 1158-1164; C Peisah, H Brodaty, G Luscombe and K Anstey, 'Children of a Cohort of Depressed Patients 25 Years On: Identifying those at risk' (2005) 39 *Australian and New Zealand Journal of Psychiatry* 907-914; P Rohde, P Lewinsohn, D Klein and J Seeley, 'Association of Parental Depression with Psychiatric Course from Adolescence to Young Adulthood among Formerly Depressed Individuals' (2005) 114 *Journal of Abnormal Psychology* 409-420. Although the intergenerational effect is real, the full magnitude of the worsening mental health of children can only be partly ascribed to the worsening mental health of their parents. That is, factors in addition to parental mental health are responsible for the increase in children's mental health problems: K Schepman, S Collishaw, F Gardner, B Maughan, J Scott and A Pickles, 'Do Changes in Parent Mental Health Explain Trends in Youth Emotional Problems?' (2011) *Social Science and Medicine* (available online 27 May 2011).

124. J Leis and T Mendelson, 'Intergenerational Transmission of Psychopathology: Minor versus major parental depression' (2010) 198 *Journal of Nervous and Mental Disease* 356-361.

125. White and Smith, *Australian Secondary School*, above n 70.

It would be tempting therefore to see the problems facing Australia's young people as being confined to a small minority, and that a little more money, a few more programs, will turn the tide again. That is how typically governments respond to problems. A need is identified; a promising program is suggested; some funding is made available, perhaps for a pilot project, perhaps for a larger roll-out; the results are evaluated to see if the intervention has made a difference. Governments, perhaps the community at large, tend to see social problems as being like spot fires, one here, one there, another in the distance. If the spot fire is threatening enough, action may be taken to deal with it. Yet rarely do we see the spot fires as a symptom rather than an isolated problem to be addressed. Rarely do we recognise the possibility that behind the visible spot fires, a major bush fire is burning.

The evidence from international trends however, is that a major bush fire is indeed burning across the western world. This helps explain the deteriorating emotional wellbeing of so many teenagers – especially girls.

Conclusion

The overall evidence is that there has been a significant decline in adolescent emotional wellbeing in the last decade or so, and this deterioration has been rapid. This is so particularly for teenage girls. While there has been some progress in arresting some of these adverse trends, for example, binge drinking, a focus on individual issues may divert attention from the greater problem, which is deterioration in the social environment generally.



CHAPTER 3

Family Stability and Children's Wellbeing

The clear evidence from the data presented in chapters 1 and 2 is that a growing number of children are experiencing child abuse and neglect, or need the intervention of child protection services because the parent is unable to cope. Children who require out-of-home care are much less likely to be able to return to their family of origin than a decade ago, leading to a growing crisis in availability of foster carers. The preponderance of the evidence across the country is also that the emotional wellbeing of children is declining and that there is an increase in mental disorders amongst young people. As the Australian Medical Association noted in 2010:¹²⁶

“Overall, the health status of Australian children has improved over the past few decades as demonstrated by decreases in the incidence of vaccine preventable diseases and infant mortality rates. However on measures of developmental wellbeing such as mental health and obesity, our children and young people have demonstrated a significant deterioration in outcomes.”

The Australian population may be richer and physically healthier than it was two or three decades ago; but the country is not doing nearly so well in terms of emotional wellbeing – and this is particularly evident when looking at the emotional wellbeing of children and young people, particularly adolescent girls.

What can explain the adverse trends in the wellbeing of children and young people documented in the last two chapters?

Symptoms and causes

Making judgments about causation in relation to such major trends is of course very difficult. Social scientists are typically reluctant to make decisive calls about causation. Correlation is not causation. The finding that x correlates with y does not mean that x caused y , or conversely, that y caused x . Even if it could be determined that x is causally related to y , it may not be the sole cause, or even a significant cause.¹²⁷ Social scientists have various statistical techniques – some of them very sophisticated – to try to understand what is going on behind the raw data, but we will ever only see an incomplete and blurry picture.

- The Australian population may be richer and physically healthier than it was two or three decades ago; but the country is not doing nearly so well in terms of emotional wellbeing – and this is particularly evident when looking at the emotional wellbeing of children and young people, particularly adolescent girls.

126. Australian Medical Association, *Developmental Health and Wellbeing of Australia's Children and Young People*, AMA Position Statement (2010) 1.

127. See further, M Rutter, 'Proceeding from Observed Correlation to Causal Inference: The use of natural experiments' (2007) 2 *Perspectives on Psychological Science* 377–395.

Even when questions are answered about what may be leading to the adverse trends that are observed, they may only lead to other questions. For example, drug and alcohol addictions, and mental health problems are both significant risk factors for child abuse and neglect. However, that raises further questions such as what leads people to misuse alcohol or drugs, and what are the epidemiological factors leading to increased mental illness? Researchers in the United States have found that adults with four or more adverse experiences in childhood¹²⁸ were seven times more likely to have problems with alcohol addiction and five times more likely to have taken illegal drugs.¹²⁹ Identifying causative factors may simply push the questions further back.

An example of this is excessive consumption of alcohol. While levels of illicit drug use have remained fairly stable over time,¹³⁰ there has been a clear rise in abuse of alcohol among women of child-bearing age, 20-39 years old. Alcohol intoxication impairs the ability of a parent to provide for children's most basic needs such as preparing meals, ensuring young children are safe, and maintaining regular routines such as bathtime, bedtime and going to school.¹³¹ Table 6 shows increases both in short term risk (binge drinking on a weekly basis) and long-term risks (consistent high level consumption over a lengthy period of time). Long-term risk is defined as a weekly pattern of consuming 15 or more standard drinks per week for females.¹³²

Table 6: Recent trends in alcohol abuse for women aged 20-39

		20-29	30-39
Short term risk weekly	2001	9.3%	4.8%
	2004	10.9%	5.8%
	2007	12.2%	6.8%
Long-term risk	2001	14.9%	8.6%
	2004	15.1%	9.9%
	2007	16.4%	10.8%

Source: Australian Institute of Health and Welfare, *2007 National Drug Strategy Household Survey: Detailed findings*

128. The adverse experiences were psychological, physical, or sexual abuse; violence against mother; or living with household members who were substance abusers, mentally ill or suicidal, or ever imprisoned.

129. V Felitti, R Anda, D Nordenberg, D Williamson, A Spitz, V Edwards, M Koss and J Marks, 'Relationship of Childhood Abuse and Household Dysfunction in many of the Leading Causes of Death in Adults' (1998) 14 *American Journal of Preventive Medicine* 245-258.

130. Australian Institute of Health and Welfare, *2007 National Drug Strategy Household Survey: First results*, Cat no PHE 98 (2008). The total number of people using illicit drugs actually fell between 2004 and 2007 due mainly to a decline in cannabis use. Intake of other drugs had increased however (ibid tbl 1.1).

131. S Dawe, P Harnett and S Frye, *Improving Outcomes for Children Living in Families with Parental Substance Misuse: What do we know and what should we do*, Issues in Child Abuse Prevention no 9 (Australian Institute of Family Studies, 2008).

132. Australian Institute of Health and Welfare, *2007 National Drug Strategy Household Survey: Detailed findings*, Cat no PHE 107 (2008) 6. The *2007 National Drug Strategy Household Survey's* assessment of risky drinking utilized guidelines published by the National Health and Medical Research Council (NHMRC) in 2001 (Australian Institute of Health and Welfare, *2007 National Drug Strategy Household Survey: Detailed findings*, Cat no PHE 107 (2008) 6; National Health and Medical Research Council, *Australian Alcohol Guidelines*, above n 70, tbl 1). Drawing on more current research, the revised 2009 guidelines have reconceptualised the criteria for risky drinking: 'the [2009] guidelines introduce the concept of progressively increasing risk of harm with the amount of alcohol consumed, rather than specifying 'risky' and 'high risk' levels of drinking above guideline levels', as the 2001 guidelines did (see National Health and Medical Research Council, *Australian Guidelines to Reduce Health Risks*, above n 70, 7).

- The overwhelming evidence from research is that children do best in two-parent married families.

It has been estimated that 13% of Australian children live in a household with at least one adult who regularly engages in binge drinking.¹³³

If increasing levels of alcohol abuse help explain the rise in reports of child abuse and neglect, then a prevention strategy should aim to reduce the levels of binge drinking and to increase services for alcohol addiction, for women of child-bearing age. Services should be directed particularly to those women who are already mothers. Better support for mothers with drug addiction problems may help prevent child abuse and neglect and avoid the necessity of taking children into out-of-home care.

However, the problem in focusing only on primary risk factors for child abuse and neglect is that these prevention efforts may deal only with symptoms, and do little to reverse the primary causes of increased problems for children and young people. Alcohol abuse, for example, may be a growing problem, but why is it growing? Asking that question takes us back to the evidence for deteriorating emotional wellbeing of adolescents, and particularly for teenage girls, who then carry these problems into adulthood. The deteriorating mental health and emotional wellbeing of the population, and in particular of women, over the last few decades, has an impact upon their children,¹³⁴ creating a cascading effect on successive younger generations.

Seeing the wood from the trees

A focus on the primary factors associated with child abuse and neglect may also divert attention away from the big picture of what is happening in many different facets of children's lives. If we examine only the individual statistics on issues such as the increase in self-harm, binge drinking, sexually transmitted infections or juvenile delinquency, then there are a myriad of different explanations that might be offered. Many of them relate to childhood adversities, such as child sexual abuse and living in homes where there are high levels of family violence. While these are very important factors, it is vital also to look at the population-wide changes that may explain the deterioration in children's wellbeing.

There are various population-wide explanations for the increase in concerns about child abuse and neglect and the deterioration in adolescent mental health. UNICEF, in its 2011 report, attributes it to disrupted family structures, growing youth unemployment and families' unrealistic educational and vocational aspirations for their children.¹³⁵ Richard Eckersley, an expert at the Australian National University, relates the decline in children's wellbeing to wider cultural changes in Western nations, notably greater materialism and individualism. He observes that:¹³⁶

133. S Dawe, S Frye, D Best, D Moss, J Atkinson, C Evans, M Lynch and P Harnett, *Drug Use in the Family: Impacts and implications for children* (Australian National Council on Drugs, 2007).

134. For example some research suggests that depression and anxiety are, to some extent, intergenerationally transmitted. See Schepman et al, above n 123; Leis and Mendelson, above n 124.

135. United Nations Children's Fund (UNICEF), above n 118, 27.

136. Eckersley, above n 67, 632-33.

“These cultural factors also have more intangible, pervasive effects that affect wellbeing, including: a heightened sense of risk, uncertainty and insecurity; a lack of clear frames of reference; a rise in personal expectations and a perception that the onus of success lies with the individual; too much freedom and choice, which is experienced as a threat or tyranny; the confusion of autonomy with independence or separateness; and a shift from intrinsic to extrinsic goals such as money, status and recognition.”

All of those factors may have an influence, along with others. It would be simplistic to posit just one or two explanations. However, there is a vast body of evidence that shows that family conflict and family breakdown have a range of deleterious effects on children and young people. If there is one major demographic change in western societies that can be linked to a large range of adverse consequences for many children and young people, it is the growth in the numbers of children who experience life in a family other than living with their two biological parents, at some point before the age of 16. This has a range of adverse impacts upon children’s wellbeing. UNICEF’s view that disrupted family structures are a major explanation for deteriorating adolescent mental health is well-supported by the social science evidence.

The importance of married, two-parent families

The overwhelming evidence from research is that children do best in two-parent married families. As American scholar Prof. Susan Brown recently stated in a review of the research evidence:¹³⁷

“Over the past decade, evidence on the benefits of marriage for the well-being of children has continued to mount. Children residing in two-biological-parent married families tend to enjoy better outcomes than do their counterparts raised in other family forms. The differential is modest but consistent and persists across several domains of well-being. Children living with two biological married parents experience better educational, social, cognitive, and behavioral outcomes than do other children, on average. Variation in well-being among children living outside of two-biological-parent married families (e.g., married step, cohabiting, and single-parent families) is comparatively low and often negligible. The benefits associated with marriage not only are evident in the short-term but also endure through adulthood.”

There is no reason to believe the situation in Australia is any different.

137. S Brown, ‘Marriage and Child Well-Being: Research and policy perspectives’ (2010) 72 *Journal of Marriage and Family* 1059-1077, 1062 (references omitted). See also P Amato, ‘Research on Divorce: Continuing trends and new developments’ (2010) 72 *Journal of Marriage and Family* 650-666, 653 (‘Research during the last decade continued to show that children with divorced parents, compared with children with continuously married parents, score lower on a variety of emotional, behavioral, social, health, and academic outcomes, on average. ... Although many of these studies replicate earlier findings, they are useful in showing that the links between divorce and forms of child well-being have remained relatively constant across decades.’); S McLanahan and C Percheski, ‘Family Structure and the Reproduction of Inequalities’ (2008) 34 *Annual Review of Sociology* 257-276, 264-65 (‘A large body of research indicates that living apart from a biological parent (typically the father) is associated with a host of negative outcomes that are expected to affect children’s future life chances or ability to move up the income ladder’); Witherspoon Institute, *Marriage and the Public Good: Ten principles* (2008) 9 (‘The evidence linking the health of marriage to the welfare of children is clear. During the last two decades, a large body of social scientific research has emerged indicating that children do best when reared by their mothers and fathers in a married, intact family.’); D Ribar, *What Do Social Scientists Know About the Benefits of Marriage? A review of quantitative methodologies*, Discussion Paper no 998 (Institute for Study and Labor, January 2004) 1 (‘Marriage is positively associated with a large number of outcomes including improved cognitive, emotional and physical well-being for children, better mental and physical health for adults, and greater earnings and consumption for family members.’)

Although debate continues on the reasons for the benefits of marriage, and in particular, on the difference between marriage and cohabitation, the preponderance of the research indicates that these differences remain even after taking account of selection effects. Those who argue that the differences are purely the outcome of selection effects hold that family structure does not influence child wellbeing. Rather it is the characteristics of parents that matter. That is, children fare best in two-biological-parent married families because the adults who form and maintain this form of relationship tend to be more stable, well-adjusted, and resource-rich.¹³⁸ In contradistinction stands the causation view, which says that when people take upon themselves the commitments of marriage and hold to them, the spouses and their children experience improved levels of wellbeing that they would not have experienced had the parents chosen a non-marital family structure, such as cohabitation. Although this debate is frequently couched in a ‘selection versus causation’ war, the research seems to suggest that both selection and causation are operative, with a degree of wellbeing attributable to each of them.¹³⁹ Prof. Paul Amato sums up the research on this:¹⁴⁰

“... Research clearly demonstrates that children growing up with two continuously married parents are less likely than other children to experience a wide range of cognitive, emotional, and social problems, not only during childhood, but also in adulthood. Although it is not possible to demonstrate that family structure is the cause of these differences, studies that have used a variety of sophisticated statistical methods, including controls for genetic factors, suggest that this is the case.”

Amato points out that children do best of all growing up with two happily married biological parents,¹⁴¹ and so the focus in terms of children’s wellbeing needs to be not only on preventing family breakdown but on promoting healthier, safer and less conflicted relationships among parents.¹⁴² Children suffer adverse outcomes from parental conflict both before and after separation.

138. Brown, above n 137, 1064.

139. For discussion see Amato, above n 137; Brown, above n 137; P Amato, ‘The Impact of Family Formation Change on the Cognitive, Social, and Emotional Well-Being of the Next Generation’ (2005) 15 *The Future of Children* 75-96; J Murray, ‘Marital Protection and Marital Selection: Evidence from a historical-prospective sample of American men’ (2000) 37 *Demography* 511-521; L Lillard and C Panis, ‘Marital Status and Mortality: The role of health’ (1996) 33 *Demography* 313-327.

140. Amato, ‘The Impact of Family Formation’, above n 139, 89.

141. Ibid.

142. R Price-Robertson, D Smart and L Bromfield, ‘Family is for Life: Connections between childhood family experiences and wellbeing in early adulthood’ (2010) 85 *Family Matters* 7-17.

The effects of family conflict

There is some evidence that increased conflict over time is a major explanation for the deterioration in adolescent mental health over the last few decades. As family instability has increased over the last few decades, this may have led to more children experiencing significant family conflict than a generation or two ago. A study in Scotland that sought to explain the substantial increases in self-reported psychological distress by 15 year olds between 1987 and 2006,¹⁴³ found that young people in 2006 reported poorer family relationships than in 1987. Fewer young people were living with both parents. Fourteen per cent of boys and 20% of girls expressed a lot of worry about family relationships in 2006, up from 9% and 14% respectively in 1987. Arguments with parents had also increased significantly. The research team found that increases in arguments with parents, and increased worry about family relationships for girls, explained much of the increase in adolescent distress over that period of nearly 20 years.¹⁴⁴

The adverse effects of parental conflict on children and young people are very well-established from a large body of social science literature.¹⁴⁵ These adverse effects occur even when the family does not break down. For example, a recent British study, involving a sample of nearly 7,000 young people aged 10-15, found that those who reported that their families got on well together reported much higher levels of overall wellbeing than those who did not.¹⁴⁶ Young people who agreed or strongly agreed with this statement had an average wellbeing score of around 8.0 out of 10, compared to 5.9 out of 10 for those who disagreed or strongly disagreed. Answers to this question explained over 20% of the differences in wellbeing between the young people in this study. While family structure, and a recent change in that structure also made a difference, it was small in comparison with the significance of family conflict.

One major study was conducted in the US by Paul Amato and Alan Booth, who followed 2,000 married people over a 15-year period. They summarised their findings on the effect of marital conflict on children, even without family breakdown, as follows:¹⁴⁷

143. Sweeting et al, above n 111. See above, chapter 2.

144. Educational factors also played a role. H Sweeting, P West, R Young and G Der, 'Can We Explain Increases in Young People's Psychological Distress Over Time?' (2010) 71 *Social Science & Medicine* 1819-1830.

145. E Mark Cummings and P Davies, *Marital Conflict and Children: An emotional security perspective* (The Guilford Press, 2010); L Minze, R McDonald, E Rosentraub and E Jouriles, 'Making Sense of Family Conflict: Intimate partner violence and preschoolers' externalizing problems' (2010) 24 *Journal of Family Psychology* 5-11; M Schulz, R Waldinger, S Hauser and J Allen, 'Adolescents' Behavior in the Presence of Interparental Hostility: Developmental and emotion regulatory influences' (2005) 17 *Development and Psychopathology* 489-507; P Davies, G Harold, M Goeke-Morey and E Mark Cummings, *Child Emotional Security and Interparental Conflict* (Blackwell Publishing, 2002); J Grych and F Fincham (eds), *Interparental Conflict and Child Development: Theory, research, and applications* (Cambridge University Press, 2001).

146. G Rees, J Bradshaw, H Goswami and A Keung, *Understanding Children's Well-being: A national survey of young people's well-being* (Children's Society, 2010) 46-47.

147. P Amato and A Booth, *A Generation at Risk: Growing up in an era of family upheaval* (Harvard University Press, 1997) 219.

“... the long-term consequences of interparental discord for children are pervasive and consistently detrimental. Poor marital quality, as well as declines in marital quality over time, are associated with problematic relationships with mothers and fathers (less affection, less consensus, less perceived support, and less help exchanged); more difficulties in dating among single offspring (fewer dates, more difficulty finding dating partners, and less happiness with current dating partner); lower marital quality among married offspring (less happiness, less interaction, more conflict, more problems, and more divorce proneness); a greater probability of offspring relationship dissolution (cohabiting relationships as well as marriages); lower social integration (less church involvement, smaller networks of close kin and friends, and less community attachment); less education; and poorer psychological well-being (greater psychological distress, lower self-esteem, less happiness, and lower life satisfaction). These results suggest that parents’ marital unhappiness and discord have a broad negative impact on virtually every dimension of offspring well-being. ... Parental divorce also appears to have negative consequences for offspring, although these are not as pervasive as the effects of parents’ marital quality... these associations are independent of predivorce conflict between parents. In other words, for these outcomes, low parental marital quality lowers offspring well-being, and parental divorce lowers it even further.”

Much of the adverse impact of parental separation and divorce is due to the level of conflict experienced by children. Australian research indicates this is particularly associated with adult depression, suicidal ideation and marijuana use.¹⁴⁸ Indeed, in longitudinal studies of the effects of separation and divorce on children, it has been found that many adverse effects can be observed even some years before the parents’ relationship finally ended. Analyses of data from a large-scale study of all the children born within one week in Britain in 1958 have shown that children of families in which the parents eventually divorced were demonstrating more signs of distress many years before the divorce than children in families which remained intact. They also showed more behavioural problems than children of intact families, and had lower educational scores.¹⁴⁹ Similar findings have emerged from a longitudinal study in the United States.¹⁵⁰

148. B Rodgers, P Gray, T Davidson and P Butterworth, *Parental Divorce and Adult Family, Social and Psychological Outcomes: The contribution of childhood family adversity*, Social Policy Research Paper no 42 (Department of Families, Housing, Community Services and Indigenous Affairs, 2011) 25.

149. B Jane Elliott and M Richards, ‘Children and Divorce: Educational performance and behaviour before and after parental separation’ (1991) 5 *International Journal of Law and the Family* 258–276.

150. A Cherlin, F Furstenberg, L Chase-Lansdale, K Kiernan, P Robins, D Morrison and J Teitler, ‘Longitudinal Studies of Effects of Divorce on Children in Great Britain and the United States’ (1991) 252 *Science* 1386–1389.

The adverse effects of parental separation

There is also extensive evidence that parental separation has adverse effects on children's wellbeing.¹⁵¹ It is a significant risk factor for children both in terms of long-term emotional wellbeing and educational performance.¹⁵² Indeed, American research has now found a connection between parental divorce and longevity in later life. In a longitudinal study in the US, it was found that children from divorced families died almost five years earlier on average than children from intact families. Parental divorce during childhood was the single strongest social predictor of early death.¹⁵³ Family conflict during the course of the relationship explains some of these detrimental effects, but by no means all.

Post-separation conflict

Parental conflict does not necessarily end on separation.¹⁵⁴ Indeed, conflict and violence may be exacerbated by separation. Some violence by one parent against another only begins when the parents have separated.¹⁵⁵

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151. H Sik Kim, 'Consequences of Parental Divorce for Child Development' (2011) 76 *American Sociological Review* 487-511; Amato, above n 137; J Lansford, 'Parental Divorce and Children's Adjustment' (2009) 4 *Perspectives on Psychological Science* 140-152; P Amato and J Cheadle, 'The Long Reach of Divorce: Divorce and child well-being across three generations' (2005) 67 *Journal of Marriage and Family* 191-206; J Kelly and R Emery, 'Children's Adjustment Following Divorce: Risk and resilience perspectives' (2003) 52 *Family Relations* 352-362; E Mavis Hetherington and J Kelly, *For Better or for Worse: Divorce reconsidered* (W. W. Norton & Company, 2002) 127-130; J Kelly, *Legal and Educational Interventions for Families in Residence and Contact Disputes* (2001) 15 *Australian Journal of Family Law* 92-113; J Pryor and B Rodgers, *Children in Changing Families: Life after parental separation* (Blackwell Publishing, 2001); P Amato, 'The Consequences of Divorce for Adults and Children' (2000) 62 *Journal of Marriage and Family* 1269-1287; R Emery, *Marriage, Divorce and Children's Adjustment* (Sage Publications, 2nd ed, 1999); R Emery, 'Post-divorce Family Life for Children: An overview of research and some implications for policy' in R Thompson and P Amato (eds), *The Post-divorce Family: Children, parenting and society* (Sage Publications, 1999) 3; A Cherlin, P Lindsay Chase-Lansdale and C McRae, 'Effects of Parental Divorce on Mental Health throughout the Life Course' (1998) 63 *American Sociological Review* 239-249; Amato and Booth, above n 147; F Furstenberg and A Cherlin, *Divided Families: What happens to children when parents part* (Harvard University Press, 1991).
152. Kelly and Emery, above n 151; Amato, 'The Consequences of Divorce', above n 151; Amato and Booth, above n 147; Jane Elliott and Richards, above n 149.
153. H Friedman and L Martin, *The Longevity Project: Surprising discoveries for health and long life from the landmark eight-decade study* (Scribe Publications, 2011).
154. See eg J Lodge and M Alexander, *Views of Adolescents in Separated Families: A study of adolescents' experiences after the 2006 reforms to the family law system* (Australian Institute of Family Studies, 2010).
155. P Parkinson, J Cashmore and J Single, 'Post-Separation Conflict and the Use of Family Violence Orders' (2011) 33 *Sydney Law Review* 1-38; J Kelly and M Johnson, 'Differentiation Among Types of Intimate Partner Violence: Research update and implication for interventions' (2008) 46 *Family Court Review* 476-499; T Hotton, 'Spousal Violence after Marital Separation' (2001) 21:7 *Juristat: Canadian Centre for Justice Statistics* 1-18; J Johnston and L Campbell, 'A Clinical Typology of Interparental Violence in Disputed-custody Divorces' (1993) 63 *American Journal of Orthopsychiatry* 190-199.

Separation creates different sources of conflict between parents from the kind of conflict that occurs when parents live together. There may be arguments about property settlement or parenting arrangements in the aftermath of separation, leading to litigation; there may be ongoing arguments about child support; different approaches to discipline, diet and bedtimes in each home may be a source of friction, without parents feeling they need to reach agreement on these matters as they would in an intact family; there can be unresolved issues about the breakup that cause continuing tension and hostility; new partners may arouse feelings of resentment or jealousy; and as parents lives move in different directions, there may be serious conflict concerning a primary caregiver's desire to relocate either within Australia or overseas. These ongoing conflicts take their toll on children.¹⁵⁶

Conflict between the parents is likely to be particularly harmful if children feel that they are caught in the middle, asked to act as messengers or spies, or experience one parent denigrating the other. It can also be very harmful if one parent attempts to recruit the child as an ally in his or her battle with the other.¹⁵⁷

Conflict in single parent families and stepfamilies

A large Australian study has found that young people report significantly higher levels of conflict in stepfamilies and lone-parent families than in intact families.¹⁵⁸ Stepfamilies in particular create new sources of tension. Living in a stepfamily is not easy.¹⁵⁹ In addition to all the challenges of marital or quasi-marital relationships, stepfamilies involve numerous pressures and tensions from raising children who have different parents.

156. Minze et al, above n 145; L Trinder, J Kellet and L Swift, 'The Relationship between Contact and Child Adjustment in High Conflict Cases after Divorce or Separation' (2008) 13 *Child and Adolescent Mental Health* 181-187; J McIntosh, 'Enduring Conflict in Parental Separation: Pathways of impact on child development' (2003) 9 *Journal of Family Studies* 63-80; C Ayoub, R Deutch and A Maraganore, 'Emotional Distress in Children of High-Conflict Divorce: The impact of marital conflict and violence' (1999) 37 *Family and Conciliation Courts Review* 297-314; M Lamb, K Stemberg and R Thompson, 'The Effects of Divorce and Custody Arrangements on Children's Behavior, Development, and Adjustment' (1997) 35 *Family Court Review* 393-404; P Amato and S Rezac, 'Contact with Non-resident Parents, Interparental Conflict, and Children's Behavior' (1994) 15 *Journal of Family Issues* 191-207; C Buchanan, E Maccoby and S Dornbusch, 'Caught between Parents: Adolescents' experiences in divorced homes' (1991) 62 *Child Development* 1008-1029.

157. C Buchanan, E Maccoby and S Dornbusch, *Adolescents after Divorce* (Harvard University Press, 1996).

158. P Mance and P Yu, 'Context, Relationship Transitions and Conflict: Explaining outcomes for Australian youth from non-intact families' (2010) 27 *Journal of Population Research* 75-105, 101.

159. As Prof. Brown has written: "Even though remarriage often promotes family economic well-being, it nonetheless generates significant relationship and emotional stressors, as stepfamilies face considerable challenges to effective functioning, specifically, the renegotiation of family roles." Brown, above n 137, 1066-67.

These children are likely to have a parent living elsewhere, with whom the children have a continuing relationship. Numerous issues can arise in terms of forming a single family unit, including discipline, issues about financial provision for the different children, and difficulties in relationships between the children.¹⁶⁰ There can also be issues of resentment of stepchildren and competition for time and attention.¹⁶¹ Children from stepfamilies are less likely to complete year 12 at school than children in intact families or with a lone parent.¹⁶²

Other detrimental consequences of parental separation

A recent Australian study examined the effects of parental separation and divorce on a range of other adult outcomes, controlling for other childhood adversities, including household conflict.¹⁶³ On all measures of adverse outcomes in adulthood, children who had experienced parental separation or divorce had worse outcomes than those from intact families, and for most of these outcomes the odds were between 1.4 and 2.4 times as high. The researchers found that after controlling for other childhood adversities, having a first experience of sexual intercourse before the age of 16, leaving the parental home before the age of 17, living with a partner before the age of 20, and having a first child before the age of 20, were significantly associated with parental separation. Indeed, the odds of experiencing a particular adverse outcome were more than twice as high as for those in intact families. Children who had experienced parental separation or divorce were also significantly more likely to experience separation themselves. There were also significant associations with failure to complete secondary school education and smoking.

A number of other factors impact upon children's wellbeing apart from family conflict.

Moving after separation

One source of detriment for children whose parents separate arises from frequent moves. In the aftermath of separation, the family may need to move to a less expensive area. Children may also move when the mother forms a new intimate partnership. If a single parent is in the private rental market, security of tenure is far from guaranteed. Precisely because rental properties are bought for investment purposes, tenants may have to move on as owners cash in on rises in the property market or alter the mix of their investments.

160. See eg C Cartwright, V Farnsworth and V Mobley, 'Relationships with Step-parents in the Life Stories of Young Adults of Divorce' (2009) 82 *Family Matters* 30-37; J Pryor (ed), *International Handbook of Stepfamilies* (John Wiley & Sons, 2008); M Howden, *Stepfamilies: Understanding and responding effectively*, AFRC Briefing no 6 (Australian Institute of Family Studies, 2007).

161. A O'Connor and S Boag, 'Do Stepparents Experience more Parental Antagonism than Biological Parents? A test of evolutionary and socialization perspectives' (2010) 51 *Journal of Divorce and Remarriage* 508-525.

162. P Mance and P Yu, 'Achievement, Aspiration and Autonomy: How do youth from stepfather families compare with other young Australians?' in Department of Families, Housing, Community Services and Indigenous Affairs, *Australian Social Policy No. 8* (Commonwealth of Australia, 2009) 1-34, 16.

163. Rodgers et al, above n 148.

Moving can be difficult for children, especially moves of a sufficient distance that they have to change schools and lose contact with friends. Frequent moving has a detrimental impact on children's wellbeing, increasing both academic and behavioural problems.¹⁶⁴ McLanahan and colleagues, for example, found that residential mobility explained two thirds of the difference between children in single-parent families and two-parent families in terms of dropping out of high school.¹⁶⁵ Other research indicates that residential mobility accounts for 30% of the increase in the risk of a teen birth compared with two parent families.¹⁶⁶

Father-absence

Many fathers drop out of children's lives when the parents are not living together, especially in situations where the parents were not married.¹⁶⁷ In 1997, Australian Bureau of Statistics data based on reports of resident parents indicated that 30% of children saw their non-resident parent less than once per year, or not at all.¹⁶⁸ Thirty-six per cent of non-resident fathers who were interviewed in 2001 had not seen their youngest child in the last 12 months.¹⁶⁹ For children, losing contact with a father can be one of the most painful aspects of parental separation.¹⁷⁰

164. See eg J Teachman, K Paasch and K Carver, 'Social Capital and Dropping Out of School Early' (1996) 58 *Journal of Marriage and the Family* 773-783; M Ellwood and A Stolberg, 'The Effects of Family Composition, Family Health, Parenting Behavior and Environmental Stress on Children's Divorce Adjustment' (1993) 2 *Journal of Child and Family Studies* 23-36; I Sandler, S Wolchik, S Braver and B Fogas, 'Stability and Quality of Life Events and Psychological Symptomatology in Children of Divorce' (1991) 19 *American Journal of Community Psychology* 501-520.

165. S McLanahan and G Sandefur, *Growing Up with a Single Parent: What hurts, what helps* (Harvard University Press, 1994) 129.

166. Ibid 131. The authors concluded that: "Since many parents are in a position to reduce the number of times they move, and since judges are often in a position to limit or minimize residential mobility, these findings may be especially useful to parents and policymakers in improving the lives of children." Ibid 133. See also N Astone and S McLanahan, 'Family Structure, Residential Mobility and School Dropout: A research note' (1994) 31 *Demography* 575-584.

167. P Amato, C Meyers and R Emery, 'Changes in Nonresident Father-child Contact from 1976 to 2002' (2009) 58 *Family Relations* 41-53.

168. Australian Bureau of Statistics, *Family Characteristics Survey*, 1997, Cat no 4442.0 (1998).

169. P Parkinson and B Smyth, 'Satisfaction and Dissatisfaction with Father-child Contact Arrangements in Australia' (2004) 16 *Child and Family Law Quarterly* 289-304.

170. W Fabricius, 'Listening to Children of Divorce: New findings that diverge from Wallerstein, Lewis, and Blakeslee' (2003) 52 *Family Relations* 385-394; W Fabricius and J Hall, 'Young Adults' Perspectives on Divorce: Living arrangements' (2000) 38 *Family and Conciliation Courts Review* 446-461; L Laumann-Billings and R Emery, 'Distress Among Young Adults From Divorced Families' (2000) 14 *Journal of Family Psychology* 671-687.

While frequent contact with a non-resident parent does not, in itself, lead to improved wellbeing for the children of divorce,¹⁷¹ children do benefit from a close relationship with the non-resident parent. In a 1999 meta-analysis of 63 prior studies on parent-child visitation, Amato and Gilbreth found that when children feel emotionally close to their non-resident father, and in particular, experience “authoritative parenting”,¹⁷² this is highly beneficial to them.¹⁷³ Authoritative parenting includes helping with homework, talking about problems, providing emotional support to children, praising children’s accomplishments, and disciplining children for misbehavior. The researchers concluded that “how often fathers see children is less important than what fathers do when they are with their children.”¹⁷⁴

Adolescents who have no contact with their non-resident parent, and those who have infrequent contact, have been shown to be more depressed than those in frequent-visit and married families.¹⁷⁵ Closeness to non-resident fathers has also been found to be related to less depression in adolescents, better school performance, and a perception that their worst problem was less severe, independently of the effect of closeness to the mother.¹⁷⁶

Exposure to other childhood adversities

Family breakdown has impacts upon children also because it is more likely to expose children to other risk factors in terms of children’s wellbeing. A study conducted by the Australian National University found significant differences in this respect between children of divorce and those who have not experienced divorce, as shown in Figure 5.¹⁷⁷ While these adversities may not necessarily occur as a consequence of separation and divorce, and some may have occurred before the parents separated, these statistics demonstrate the additional adversities to which children who experience family breakdown are exposed.

171. This has been a basis for feminist objections to legislative reforms promoting more shared parenting after separation. See eg S Boyd, *Child Custody, Law, and Women’s Work* (Oxford University Press, 2003).

172. Authoritative parenting refers to a style of parenting which is neither authoritarian nor permissive. See D Baumrind, *Authoritarian v. Authoritative Parental Control* (1968) 3 *Adolescence* 255-272. See also E Seddon, *Creative Parenting after Separation: A happier way forward* (Allen & Unwin, 2003) 26-28; Mavis Hetherington and Kelly, above n 151, 127-130. Further research is needed to determine what aspects of authoritative parenting by a non-resident parent after separation are particularly beneficial to children and young people: S Stewart, ‘Nonresident Parenting and Adolescent Adjustment: The quality of nonresident father-child interaction’ (2003) 24 *Journal of Family Issues* 217-244.

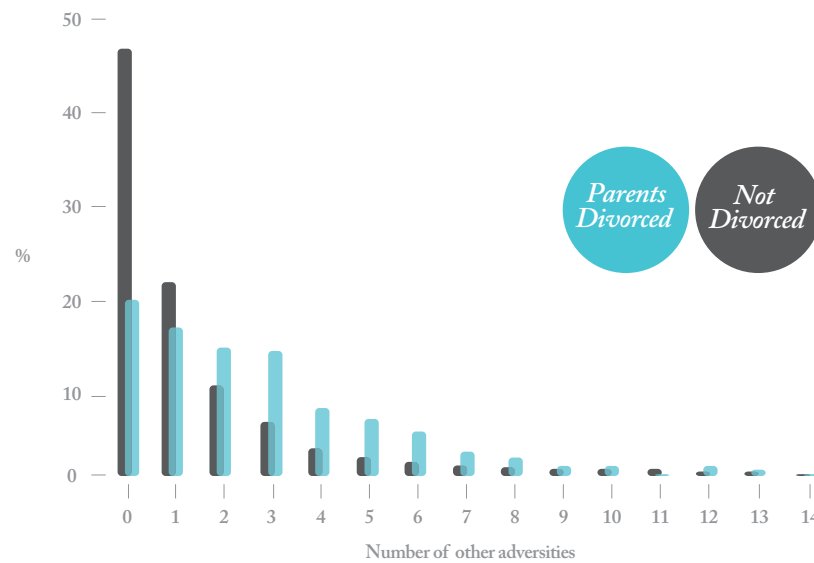
173. P Amato and J Gilbreth, ‘Nonresident Fathers and Children’s Well-being: A meta-analysis’ (1999) 61 *Journal of Marriage and Family* 557-573.

174. *Ibid* 569.

175. B Barber, ‘Support and Advice from Married and Divorced Fathers: Linkages to adolescent adjustment’ (1994) 43 *Family Relations* 433-438.

176. Buchanan et al, above n 157, 193, 204 (fig.10.6). The research evidence is not unequivocal, because Buchanan et al could not say whether a better relationship with the non-residential parent leads to better adjustment in the adolescent, or whether adolescents who are better adjusted maintain better relationships with their non-resident parent. They theorized that both processes are at work (*ibid* 198). They also found that the better adjustment of adolescents in dual residence families compared with single residence families was a reflection of the level of closeness they felt to both parents (*ibid* 204-05). See also Stewart, above n 172, 217-44 (closeness to non-resident fathers after separation associated with significantly less emotional distress in young people independently of the effect of closeness to the resident mother). But see E Welsh, A Buchanan, E Flouri and J Lewis, *Involved Fathering and Child Well-Being: Fathers’ involvement with secondary school age children* (National Children’s Bureau, 2004) (no relationship found between non-resident parent involvement and young people’s wellbeing); F Furstenberg, P Morgan and P Allison, ‘Paternal Participation and Children’s Well-being after Marital Dissolution’ (1987) 52 *American Sociological Review* 695-701 (closeness to fathers was not associated with lower levels of delinquency or distress, although the association between emotional closeness and children’s reports of dissatisfaction approached significance).

Figure 5: Parental divorce and number of other childhood adversities



Source: Australian National University, *PATH Through Life Project*

Some of the additional adversities that children of separated parents experience arise from child abuse and neglect. The international evidence is clear that lone-parent families, blended families and stepfamilies are significantly more likely to be subject to reports of abuse and neglect than intact families where there are two parents biologically related to the children.¹⁷⁸ The Australian Institute of Health and Welfare has summarised the Australian evidence:¹⁷⁹

“Compared with the distribution of family types in the Australian population, a relatively high proportion of substantiations involved children living in lone mother families and in two-parent step or blended families, whereas a relatively low proportion of substantiations involved children living in two-parent intact families. For example, in South Australia, 38% of substantiations involved children from lone mother families, 4% involved children living in lone father families, 21% involved children from two-parent step or blended families, and 33% involved children from two-parent intact families (Table 2.12). In comparison, in 2003, 20% of all South Australian children lived in lone mother families, 7% lived in lone father families, 8% lived in two-parent step or blended families and 69% lived in two-parent intact families.”

177. Data from the Australian National University PATH Through Life Project, published with kind permission from Prof. Bryan Rodgers (Email, 9 June 2011). This is a 20-year longitudinal cohort study of 7,485 adults in three groups: young (aged 20–24 at baseline), midlife (aged 40–44 at baseline) and older (aged 60–64 at baseline) (see ‘The Australian National University, *PATH Through Life Project*’ (June 2010) Centre for Mental Health Research, Australian National University <<http://cmhr.anu.edu.au/path/>>).

178. H Turner, D Finkelhor and R Ormrod, ‘Poly-victimization in a National Sample of Children and Youth’ (2010) 38 *American Journal of Preventative Medicine* 323–330; D Finkelhor, R Ormrod, H Turner and M Holt, ‘Pathways to Poly-victimization’ (2009) 14 *Child Maltreatment* 316–329; D Finkelhor, *Childhood Victimization: Violence, crime, and abuse in the lives of young people* (Oxford University Press, 2008); H Turner, D Finkelhor and R Ormrod, ‘Family Structure Variations in Patterns and Predictors of Child Victimization’ (2007) 77 *American Journal of Orthopsychiatry* 282–295; H Turner, D Finkelhor and R Ormrod, ‘The Effect of Lifetime Victimization on the Mental Health of Children and Adolescents’ (2006) 62 *Social Science & Medicine* 13–27; M Daly and M Wilson, ‘Child Abuse and Other Risks of Not Living With Both Parents’ (1985) 6 *Ethology and Sociobiology* 197–210.

179. Australian Institute of Health and Welfare, *Child protection Australia 2006–07*, Cat no CWS 31 (2008) 32.

As the AIHW noted, the family member with whom the child was living may not have been the person responsible for the harm to the child, but the overall risk of child abuse and neglect is much greater for children in families without two biological parents in the home. The Australian Institute of Family Studies has noted that “child abuse in lone parent families is about two and a half times higher than would be expected given the number of children living in such families” and that abuse in blended families or stepfamilies is about twice as high as would be expected. Conversely, just over a quarter of substantiated child abuse occurs to children living in intact families – a much lower rate than would be expected given that three quarters of children live in intact families.¹⁸⁰

US research indicates that, in the US at least, this is not merely the outcome of ‘selection effects.’ Lawrence Berger, Christina Paxson and Jane Waldfogel investigated the link between family structure and Child Protection Services’ involvement using the Fragile Families data set, (a large scale study of a cohort of unmarried and married mothers in 20 large cities¹⁸¹). They found that families in which the mother was either living alone or living with a man who was not the biological father of all children were significantly more likely to be contacted by the state child protection service than those in which she was living with the biological father of all the children living in the household. These findings remained significant after controlling for an extensive range of maternal characteristics and behaviours and, where applicable, her partner’s characteristics and behaviours.¹⁸²

Why are children more at risk of abuse when the two biological parents are not living together? There are many reasons that have been suggested.¹⁸³ Two of the most significant are the presence of new partners who are not biologically related to the children, and the financial and other stresses of lone parenthood.

180. Australian Institute of Family Studies, 5: *Step Families and Blended Families*, Australian Institute of Family Studies, 63 <www.aifs.gov.au/institute/pubs/diversity/05step.pdf>. See also NSW Department of Human Services, *Neglect Study: Summary of findings*, Research to Practice Note (June 2010) 2; M Butler, J Hopkins and I Nivison-Smith, *Resilient Communities: Socio-demographic factors associated with lower than expected rates of child protection reporting in small areas in NSW* (NSW Department of Community Services, June 2009); NSW Department of Community Services, *Socio-demographic Factors Associated with Lower than Expected Rates of Child Protection Reporting in NSW* (May 2008); I Nivison-Smith and M Chilvers, *Child Protection Reports in Context* (NSW Department of Community Services, February 2007) 14-16.

181. The term ‘fragile-families’ refers to families in which the parents are unmarried at the time of the child’s birth, in order to ‘underscore that they are families and that they are at greater risk of breaking up and living in poverty than more traditional families.’ (The Fragile Families and Child Wellbeing Study, *About Fragile Families* <<http://www.fragilefamilies.princeton.edu/about.asp>>. See also N Reichman, J Teitler, I Garfinkel and S McLanahan, ‘Fragile Families: Sample and design’ (2001) 23 *Children and Youth Services Review* 303-326, 306 (‘In our study we call these new parents and their children “fragile families,” because of the multiple risk factors associated with non-marital childbearing and to signify the vulnerability of the relationships within these families.’))

182. L Berger, C Paxson and J Waldfogel, ‘Mothers, Men, and Child Protective Services Involvement’ (2009) 14 *Child Maltreatment* 263-276.

183. Finkelhor, above n 178, 49, 50-52, 55-56.

New male partners

Children, and especially girls, are at much greater risk of sexual abuse from the presence of men living in the household who are not biologically related to them than from their own fathers.¹⁸⁴ For example, Diana Russell's landmark study of 930 women in San Francisco found that one in six girls who had grown up with a stepfather were sexually abused by him. In contrast, one in forty girls were abused by their natural father.¹⁸⁵ Similar results have emerged from other studies.¹⁸⁶

There is also a much greater risk of child homicide. One research team, for example, reported:¹⁸⁷

"Extrapolating from available data, the results indicated a considerably greater risk represented by stepfathers than by genetic fathers. At least five times as many children live with genetic fathers, while the raw frequencies of filicide were roughly equal in the two groups. A most liberal estimate for the prevalence of stepmothering (5%) also suggested that stepmothers represent a substantially greater risk of filicide."

Why is there a greater risk of abuse from new male partners? An American study of 1,000 US children aged 10-17 found that the elevated risk of child abuse in stepfamilies was explained by their higher levels of family problems, compared with intact families.¹⁸⁸ These problems included parental unemployment, alcohol or substance abuse by family members, chronic parental arguing, imprisonment of a parent, and episodes of homelessness. Other explanations have focused on the greater investment that biological fathers make in the lives of their children.¹⁸⁹

184. For a review of the studies, see eg R Wilson, 'Children at Risk: The sexual exploitation of female children after divorce' (2000-2001) 86 *Cornell Law Review* 251-327. But see J Bellamy, 'A National Study of Male Involvement Among Families in Contact With the Child Welfare System' (2009) 14 *Child Maltreatment* 255-262.

185. D Russell, 'The Prevalence and Seriousness of Incestuous Abuse: Stepfathers vs. biological fathers' (1984) 8 *Child Abuse and Neglect* 15-22.

186. L Margolin, 'Child Abuse by Mothers' Boyfriends: Why the overrepresentation?' (1992) 16 *Child Abuse and Neglect* 541-551; K Faller, 'Sexual Abuse by Paternal Caretakers: A comparison of abusers who are biological fathers in intact families, stepfathers, and non-custodial fathers' in A Horton, B Johnson, L Roundy and D Williams (eds), *The Incest Perpetrator* (Sage, 1990) 65-73.

187. G Harris, N Zoe Hilton, M Rice and A Eke, 'Children Killed by Genetic Parents Versus Stepparents' (2007) 28 *Evolution and Human Behavior* 85-95, 92. See also S West, S Friedman and P Resnick, 'Fathers Who Kill Their Children: An analysis of the literature' (2009) 54 *Journal of Forensic Sciences* 463-468, 463 ('Paternal filicide can also be examined in terms of evolution. In comparison with biological fathers, stepfathers are more likely to kill their stepchildren. One study revealed that a child under the age of 5 was eight times more likely to be killed by a stepfather than by a biological father'). The evidence for a greater risk of physical abuse in stepfamilies generally is more equivocal because it is not always clear whether the male partner has been the perpetrator: F Adler-Baeder, 'What Do We Know about the Physical Abuse of Stepchildren?' (2006) 44 *Journal of Divorce & Remarriage* 67-81.

188. Turner et al, 'Family Structure Variations', above n 178.

189. Berger et al, above n 182. See also O'Connor and Boag, above n 161; D Herring, 'Fathers and Child Maltreatment: A research agenda based on evolutionary theory and behavioral biology research' (2009) 31 *Children and Youth Services* 935-945.

The stresses of single parenthood

Being a single parent is very difficult. Especially when the children are young, without an income-earning partner, the financial pressures can be considerable. In the initial period after parental separation, children may find that they have to move from their existing home to a lower-cost housing area, perhaps some distance from their old school, friends and support network. American research indicates that increased victimisation of children in lone parent families is related to their lower socio-economic status and residence in more violent neighbourhoods.¹⁹⁰ Financial resources explain some of the differences in wellbeing between children with single parents and those with continuously married parents.¹⁹¹

In Australia, the government provides a lot of financial assistance by means of Parenting Payment, Family Tax Benefit, Housing Benefit and other forms of financial support. If the father is in continuing employment, the mother is also likely to be receiving some child support. Nonetheless, even with government financial benefits, single mothers are very likely to find it a struggle financially. This is ameliorated if they are in the paid workforce, but that brings other challenges, not least juggling work and care for the children.

Single parents, and especially those who are working to support the family, have less time to monitor and supervise their children, and this may expose children to a greater risk of abuse by other perpetrators.¹⁹²

There are other forms of stress also associated with being a lone or separated parent. One issue is the stress of transitions in relationships. It is not only the stress of separating from the other parent that matters. There is also stress associated with forming new cohabiting relationships. Research from the American Fragile Families Study indicates that, in the USA at least, mothers who enter co-residential relationships with non-biological fathers experience higher levels of parenting stress than mothers in stable coresidential relationships.¹⁹³ Some children born to lone mothers experience multiple transitions in the first few years of their lives, as mothers move in and out of quite short-term romantic and cohabiting relationships. This has a detrimental impact on child wellbeing.¹⁹⁴

190. Turner et al, 'Family Structure Variations', above n 178.

191. P Amato and R Maynard, 'Decreasing Nonmarital Births and Strengthening Marriage to Reduce Poverty' (2007) 17 *The Future of Children* 117-141; A Thomas and I Sawhill, 'For Love and Money? The impact of family structure on family income' (2005) 15 *The Future of Children* 57-74; R Aseltine, 'Pathways Linking Parental Divorce with Adolescent Depression' (1996) 37 *Journal of Health and Social Behavior* 133-148; R Simons (ed), *Understanding Differences between Divorced and Intact Families: Stress, interaction, and child outcome* (Sage Publications, 1996); D Morrison and A Cherlin, 'The Divorce Process and Young Children's Well-Being: A prospective analysis' (1995) 57 *Journal of Marriage and the Family* 800-812; McLanahan and Sandefur, above n 165.

192. J Lauritsen, *How Families and Communities Influence Youth Victimization*, Juvenile Justice Bulletin (U.S. Department of Justice, November 2003) 6, 10; G Margolin and E Gordis, 'The Effects of Family and Community Violence on Children' (2000) 51 *Annual Review of Psychology* 445-479; F-A Esbensen, D Huizinga and S Menard, 'Family Context and Criminal Victimization in Adolescence' (1999) 31 *Youth & Society* 168-198.

193. C Cooper, S McLanahan, S Meadows and J Brooks-Gunn, 'Family Structure Transitions and Maternal Parenting Stress' (2009) 71 *Journal of Marriage and Family* 558-574. See also A Beck, C Cooper, S McLanahan and J Brooks-Gunn, 'Partnership Transitions and Maternal Parenting' (2010) 72 *Journal of Marriage and Family* 219-233; J Waldfogel, T-A Craigie and J Brooks-Gunn, 'Fragile Families and Child Wellbeing' (2010) 20 *The Future of Children* 87-112.

194. C Osborne and S McLanahan, 'Partnership Instability and Child Well-Being' (2007) 69 *Journal of Marriage and Family* 1065-1083.

Conclusion

Efforts at preventing child abuse and neglect, and tackling the growing problem of adolescent mental health, are likely to be of limited effectiveness unless, as a society, we can reverse the deterioration in the social environment in which children grow up. The rapidly increasing level of reports of child abuse and neglect, the apparently inexorable growth in the numbers of children in out-of-home care, and the deteriorating mental health of adolescents, especially girls, are symptoms of a much greater problem. While not all problems faced by Australia's children today, by any means, can be attributed to the consequences of unstable relationships, there is a vast amount of social science evidence for the adverse impacts of family conflict and separation on the emotional wellbeing of children.

As more and more children grow up in fragile families, it ought to be expected that reports of child abuse and neglect will increase, the crisis in adolescent mental health will worsen, and more and more children will experience a range of other adverse outcomes that affect them well into their adult lives. The next chapter examines the increasing fragility of Australian families over time.



CHAPTER 4

Australia's Fragile Families

The fragility of Australian families

Arguably one of the most important reasons why the mental health of the population is declining, is the increasing fragility of Australian families.

This may be seen in an analysis of the likelihood of experiencing birth into a lone-mother household or experiencing parental separation before the age of 15 in different birth cohorts between the 1940s and the 1980s.¹⁹⁵ As Table 7 shows, in the cohort born between 1946 and 1955, nearly 9% had been either born to a single mother or experienced parental separation by the age of 15. For the cohort born between 1981 and 1985, the figure was 25% - nearly three times as high. There was a substantial increase both in the proportion of children born to single mothers and those who experienced parental separation. Children born between 1981 and 1985 also spent three times as many years of their childhood living in a stepfamily as those born between 1946 and 1955.¹⁹⁶

Table 7: Cumulative percent of children ever living in lone mother family by birth cohort

Birth cohort	% ever living with lone mother		
	By age 15	At birth	Due to parental separation
1946-55	8.9	2.6	6.3
1956-62	11.0	3.2	7.8
1963-75	18.0	3.0	15.0
1976-80	22.2	3.8	18.4
1981-85	24.9	6.5	18.4

Source: Household, Income and Labour Dynamics in Australia (HILDA)¹⁹⁷

One consequence of this growing fragility in family relationships is that more children are experiencing multiple transitions in their family circumstances. Of the cohort born between 1946 and 1955, 2.4% experienced three or more different family types by the age of 15. Of the cohort born between 1981 and 1985, 10.5% experienced three or more different family types.¹⁹⁸

195. D de Vaus and M Gray, 'The Changing Living Arrangements of Children, 1946-2001' (2004) 10 *Journal of Family Studies* 9-19, 15.

196. Ibid 16.

197. Table reproduced from de Vaus and Gray, *ibid* tbl 2.

198. D de Vaus and M Gray, 'In What Types of Families do Children Now Live? Changes from 1946 to 2001' in B Headey and D Warren, *Families, Incomes and Jobs, Volume 2: A statistical report on waves 1 to 4 of the HILDA survey* (Melbourne Institute of Applied Economics and Social Research, University of Melbourne, 2007) 2-7, 4.

Similar findings have emerged from a large study conducted by the Australian National University, published in 2011. Thousands of people in Canberra, Australian Capital Territory and Queanbeyan, New South Wales, filled in questionnaires about a range of childhood adversities, as well as positive experiences of childhood. There were three groups of participants: one cohort aged 20 to 24 years, another aged 40 to 44 years, and a third aged 60 to 64 years. In each generation, more people had experienced divorce or permanent separation of their parents:¹⁹⁹

- 60 to 64 year olds: 10.1%
- 40 to 44 year olds: 12.0%
- 20 to 24 year olds: 21.5%

The youngest generation experienced parental separation and divorce at almost twice the rate of those who were just twenty years older.

The divorce rate

When problems in family life are discussed, most attention focuses on the divorce rate. Family breakdown is thus equated with divorce. There was certainly a sharp rise in the divorce rate after the introduction of the Family Law Act 1975, as many people who had separated prior to 1975 sought a formal divorce when the ground for dissolution became irretrievable breakdown proven by one year's separation. By the late 1980s the divorce rate per 1000 married women ranged between 10.6 and 10.9. The rate over the past few years has fluctuated between 12.0 and 13.0 divorces per 1,000 married women.²⁰⁰ Around 28% of marriages entered into in 1985-1987 could be expected to end in divorce. This proportion increased to 33% for all marriages entered into in 2000-2002.²⁰¹ The proportion of divorces involving children has actually declined over the last 20 years.²⁰²

- In 2009, 35% of all births were ex-nuptial, that is, outside marriage. The proportion has risen dramatically in the last 30 years.

The growth in ex-nuptial births

While the divorce rate, as a proportion of those who are married, has not risen dramatically, the marriage rate has declined. Between 1989 and 2009, the marriage rate per 1000 population declined from 7.0 to 5.5.²⁰³ Far fewer men and women are getting married than a generation ago. More are living in de facto relationships, and having children in de facto relationships. Many women have children without having the father living with them at all. In 2009, 35% of all births were ex-nuptial, that is, outside marriage. The proportion has risen dramatically in the last 30 years.

199. Rodgers et al, n 148, 9.

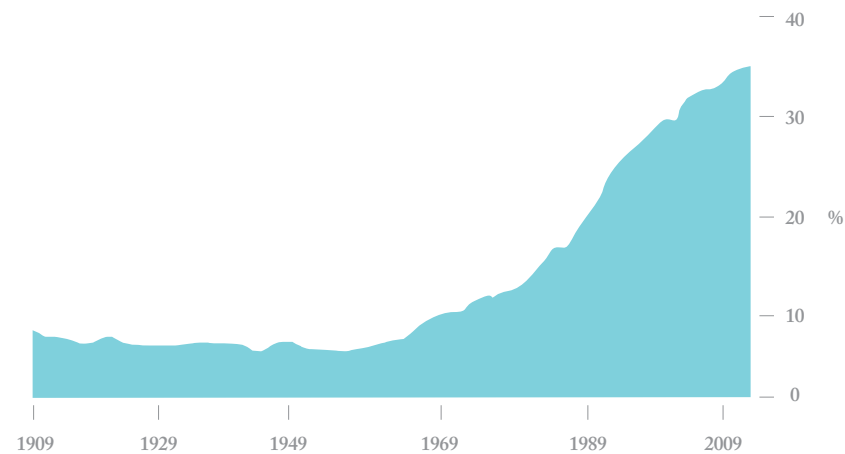
200. R Weston and L Qu, *Family Statistics and Trends: Trends in couple dissolution*, Family Relationships Quarterly, Iss no 2 (Australian Institute of Family Studies, 2006).

201. S Linacre, *Australian Social Trends 2007: Lifetime marriage and divorce trends*, Cat no 4102.0 (Australian Bureau of Statistics, 2007) 3. It should be noted that the 'crude divorce rate', that is divorces per 1000 people in the population, has been falling over time, but this is only because fewer parents marry in the first place. Australian Bureau of Statistics, *Divorces* (2 December 2010) <<http://www.abs.gov.au/ausstats/abs@.nsf/Products/3310.0~2009-Chapter-Divorces?OpenDocument>>.

202. Ibid.

203. Australian Bureau of Statistics, *Crude Marriage Rate* (2 December 2010) <<http://www.abs.gov.au/ausstats/abs@.nsf/Products/1D63A0059ECDFDCFA2577ED00146123?opendocument>>.

Figure 6: Ex-nuptial births: Proportion of all births, 1909-2009



Source: Australian Bureau of Statistics, *Births, 2009* ²⁰⁴

While 35% of all births are outside of marriage, the proportion of first-born children who are ex-nuptial is much higher, since many women have a first child outside of marriage and then marry subsequently – either to the father of that child or to another man. Throughout the first decade of this century, births of a first child were twice as likely to be to unmarried parents (39%) as births of second or subsequent children (20%).²⁰⁵

About 11-12% of all births are to single mothers, according to data from 2000-2001.²⁰⁶ Since 1975, at least, entry of children born into lone-mother families has increased at a higher rate than due to parental separation.²⁰⁷

204. Reproduced from Australian Bureau of Statistics, *Births, 2009*, Cat no 3301.0 (2010) fig 2.5.

205. Australian Bureau of Statistics, *Couples in Australia* (23 December 2009) <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Main+Features20March%202009>>.

206. de Vaus and Gray, above n 195, 12.

207. Ibid 15.

- Cohabiting relationships are typically quite short-term. The evidence from Australia is consistent with the evidence from many other parts of the world that de facto relationships break down at a very much faster rate than do marriages.

Cohabitation and parenthood

The majority of ex-nuptial children are born into cohabiting relationships. The proportion of all births to parents who were cohabiting outside marriage nearly doubled in the 1990s.²⁰⁸ Some of those parents will go on to marry. In a study by the Australian Bureau of Statistics, 42% of those living in de facto relationships in 2006–07 expressed an intention to marry their current partner in the future.²⁰⁹ People live in de facto relationships for a range of different reasons, however, with many rejecting the idea of formal marriage entirely.²¹⁰ De facto relationships have become more acceptable, as an alternative to marriage, over time.²¹¹

Cohabiting relationships are typically quite short-term. The evidence from Australia is consistent with the evidence from many other parts of the world that de facto relationships break down at a very much faster rate than do marriages.²¹² Research by the Australian Institute of Family Studies has shown that the typical trajectory for people who began living together between the 1970s and the mid-1990s was either to marry or to break up, with the break-up rate after 5 years being about four times as high as for married couples. Of all the men who first began cohabiting between 1990 and 1994, just over 50% had since married, 40% had broken up, and nearly 9% were still cohabiting. Of the women who first began cohabiting in the same period, an equal number had since married or broken up, with 7% still cohabiting.²¹³

208. The proportion of all births to cohabitantes rose from 8.6% in 1990 to 16.2% in 2001. de Vaus and Gray, above n 198, 2.

209. Australian Bureau of Statistics, *Family Characteristics and Transitions, Australia, 2006–07* (26 May 2011) <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/allprimarymainfeatures/E0C7AEEAE3AD51BCA25789C0023D7EF?opendocument>>. On gender differences concerning cohabitation with a view to eventual marriage, see P Huang, P Smock, W Manning and C Bergstrom-Lynch, 'He Says, She Says: Gender and cohabitation' (2011) 32 *Journal of Family Issues* 876–905; S Sassier and J McNally, 'Cohabiting Couple's Economic Circumstances and Union Transitions: A re-examination using multiple imputation techniques' (2004) 32 *Social Science Research* 553–578; S Brown, 'Union Transitions among Cohabitors: The significance of relationship assessment and expectations' (2000) 62 *Journal of Marriage and Family* 833–846.

210. S Buchler, J Baxter, M Haynes and M Western, 'The Social and Demographic Characteristics of Cohabitors in Australia: Towards a typology of cohabiting couples' (2009) 82 *Family Matters* 22–29.

211. L Qu and R Weston, *Family Statistics and Trends: Attitudes towards marriage and cohabitation*, Family Relationships Quarterly, Iss no 8 (Australian Institute of Family Studies, 2008).

212. A Thornton, W Axinn and Y Xie, 'Marriage and Cohabitation' (University of Chicago Press, 2007); L Bumpass and J Sweet, 'National Estimates of Cohabitation' (1989) 26 *Demography* 615–625 (about 29% of cohabiting couples break up within the first two years compared with 9% of married couples); K Kiernan, 'Cohabitation in Western Europe' (1999) 96 *Population Trends* 25–32. In a study of 11 European countries, Kiernan found that cohabiting relationships which did not result in marriage were much more fragile than marriages either preceded by a period of cohabitation or without a prior period of cohabitation. In Britain, only 18% of such relationships survived for ten years. The levels of stability of cohabitation were higher in other countries, but in no country other than East Germany did the majority of cohabiting partnerships survive for ten years. See also J Hayward and G Brandon, *Cohabitation in the 21st Century* (Jubilee Centre, 2010); R Forste, 'Prelude to Marriage or Alternative to Marriage? A social demographic look at cohabitation in the U.S.' (2002) 4 *Journal of Law and Family Studies* 91–104; N Marcil-Gratton, *Growing up with Mom and Dad? The intricate family life courses of Canadian children* (Statistics Canada, 1998); H Glezer, 'Cohabitation and Marriage Relationships in the 1990s' (1997) 47 *Family Matters* 5–9; S Nock, 'A Comparison of Marriages and Cohabiting Relationships' (1995) 16 *Journal of Family Issues* 53–76.

213. D de Vaus, *Diversity and Change in Australian Families: Statistical profiles* (Australian Institute of Family Studies, 2004) ch 10; Weston and Qu, above n 200.

More recent longitudinal data from the Household Income and Labour Dynamics in Australia survey reveals similar trends. Participants have been interviewed once per year over a period of years, allowing for changes in relationship status to be tracked over time. Of the participants who were married in 2002, 92 per cent were married in 2007, 99% of these to the same partner as in 2002.²¹⁴ A further 3.2% had been widowed. Of those who were in de facto relationships in 2001, 32% had since married. However, only 82% of them married the person they were living with in 2002. Fifty per cent were in de facto relationships. Only 75% of these were living with the same partner as in 2002. About a quarter of the men and women who reported high levels of satisfaction with their de facto relationship in 2002 were no longer in that relationship by 2007, compared to less than 10 per cent of men and women who reported high levels of satisfaction with their marriage.²¹⁵

The term ‘de facto relationship’ of course includes a diverse range of relationships, some trying out the relationship as a prelude to possible marriage, others seeing themselves in a committed and ongoing relationship.²¹⁶ Recent Australian research indicates that people who are cohabiting but intend to marry (either as a first or subsequent marriage) are significantly less likely to separate compared to those who cohabit without having marriage plans.²¹⁷

Even couples with children who live in de facto relationships have much higher rates of breakdown. Another analysis of data from the longitudinal Household Income and Labour Dynamics in Australia study examined the characteristics of those who were in intact relationships at wave 1 (2001) and who had separated by wave 3, two years later. Ten per cent of couples with children were living together in de facto relationships in 2001. They constituted nearly 38% of those who had separated by wave 3.²¹⁸ The odds of a de facto couple with children breaking up was more than seven times as high as a married couple who had not lived together before marriage, and more than four times as high as those who had lived together but went on to marry.²¹⁹

214. R Wilkins, D Warren, M Hahn and B Houn, *Families, Incomes and Jobs, Volume 5: A Statistical Report on Waves 1 to 7 of the Household, Income and Labour Dynamics in Australia Survey* (Melbourne Institute of Applied Economics and Social Research, University of Melbourne, 2010) 5-6.

215. Ibid 14.

216. On the different meanings of commitment, see J Pryor and J Roberts, ‘What is Commitment? How married and cohabiting parents talk about their relationships’ (2005) 71 *Family Matters* 24-31.

217. S Buchler, M Haynes, J Baxter and M Western, ‘Cohabitation Outcomes: The effect of fertility intentions, relationship satisfaction and union length on cohabitation transitions’ (Paper given at the HILDA Survey Research Conference, Melbourne, 2009) 14.

218. P Butterworth, T Oz, B Rodgers and H Berry, *Factors Associated with Relationship Dissolution of Australian Families with Children*, Social Policy Research Paper No 37 (Australian Government Department of Families, Housing, Community Services and Indigenous Affairs, 2008) 22.

219. Ibid 29, tbl 9.

Further indication of the instability of cohabitation in Australia, even where there are children, can be seen in a recently published study of the family law system. The research team interviewed 10,000 people who had separated after July 1 2006. They were interviewed in 2008. About 50% had been married, 35% cohabited and 13% were “other”.²²⁰ Yet in 2006, de facto partners represented only 15% of all people living either in a registered marriage or a de facto relationship,²²¹ and in 2006-07, married people aged 25-44 years were twice as likely to have children as people of the same age in de facto relationships (77% and 37% respectively).²²² That indicates that while most couples who live together with their biological children at any given time are married rather than in a de facto relationship, parents in de facto relationships are much more likely to separate.

This is consistent with the overseas evidence. Findings from the Millennium Cohort Study in Britain, initially comprising a cohort of 18,000 mothers who gave birth during 2000 or 2001, indicate that cohabiting couples are consistently 2 to 2.5 times more likely to split up compared to their married counterparts, across all income groups, by their child’s fifth birthday.²²³ Data from the Fragile Families study in the US found that parental separation by the time the child was 3, was five times greater for children born to cohabiting than married parents. Differences in financial wellbeing and family characteristics between cohabiting and married parents explained some of the difference, but after controlling for race, ethnicity, education, economic factors, family characteristics and an extensive set of other covariates, parents who were cohabiting at their child’s birth still had over two and a half times the risk of separating compared with parents who were married at their child’s birth.²²⁴

In summary, the explanation for the massive increase in the proportions of Australian children who do not reach the age of 15 in an intact family with both of their biological parents is two-fold. First, more and more children are being born to single mothers who are neither married nor living in a cohabiting de facto relationship. Secondly, as the proportion of the population who live together outside marriage has increased relative to the married population, and as more and more de facto couples have children outside marriage, so the chances of the parents still being together by the time the child reaches 15 have substantially diminished.

220. Kaspiew et al, above n 29, 25.

221. Australian Bureau of Statistics, *Marriages, Divorces and De Facto Relationships* (3 June 2010) <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/947114F16DC7D980CA25773700169C64?opendocument>>.

222. Ibid.

223. H Benson, ‘Introduction’ in H Benson and S Callan (eds), *What Works in Relationship Education: Lessons from academics and service deliverers in the United States and Europe* (Doha International Institute for Family Studies and Development, 2009) 11-20. See also A Berrington, ‘Entry into Parenthood and the Outcome of Cohabiting Partnerships in Britain’ (2001) 63 *Journal of Marriage and Family* 80-96 (26% of all cohabiting partnerships dissolved within 5 years, 16% continued and 59% resulted in marriage. For women, the presence of children born within the partnership had no effect on either the probability that the couple marry or the rate of separation, compared to women without children, although for men, the birth of a child had a stabilizing effect on the partnership); K Kiernan, ‘Childbearing Outside Marriage in Western Europe’ (1999) 98 *Population Trends* 11-20, tbl 11 (probability of relationship surviving 3 and 5 years after birth of first child among women aged 20-45 lower for cohabiting relationships than marriage in 9 countries studied).

224. C Osborne, W Manning and P Smock, ‘Married and Cohabiting Parents’ Relationship Stability: A focus on race and ethnicity’ (2007) 69 *Journal of Marriage and Family* 1345-1366. See also *Parents’ Relationship Status Five Years After a Non-marital Birth*, Fragile Families Research Brief 39 (Center for Research on Child Wellbeing, Princeton University, June 2007).

Conclusion

Fragile families have direct effects on children's wellbeing because of the deleterious effects of family conflict and the stresses of parental separation. Family breakdown also has indirect effects on children's wellbeing by exposing children to a greater risk of other childhood adversities.

In Australia, the number of children who do not reach the age of 15 in an intact family with both of their biological parents has almost doubled within a generation. This is largely a consequence of the rapid rise in the numbers of children born into de facto relationships, which subsequently break down, and an increase in the number of women giving birth to a child without having a cohabiting partner.

The trend in Australia of ever-increasing fragility in family life shows no signs of abating. Reversing the deterioration in children's wellbeing requires that much more be done to reduce the rates of family conflict and family breakdown.



CHAPTER 5

A Focus on Prevention

- In particular, there needs to be a major focus on preventing family breakdown and on reducing the incidence of family violence, if children are to experience safer, more stable and more nurturing home environments.

There is now a consensus in Australia, as well as other western countries, that in order to make a lasting difference to the levels of child maltreatment, as well as other problems that children face, there has to be a focus on prevention.²²⁵

Prevention can be classified as primary, secondary or tertiary. Primary prevention is directed at the general population and aims to prevent child abuse and neglect occurring. Secondary prevention is targeted at those in the community that have one or more risk factors associated with child abuse or neglect, such as parental drug or alcohol addiction or mental health problems. Tertiary prevention involves working with families where child abuse or neglect has already occurred, and aims to prevent further maltreatment.

The Council of Australian Governments in its strategic plan for child protection, has envisaged a healthy child protection system as involving a pyramid, with statutory services, that is, the investigation and intervention work of state and territory child protection departments, being at the apex of the pyramid, and targeted services for at-risk families being the next level down, then early intervention services for vulnerable families and children on the next level, and then universal preventative services for all families and children at the bottom of the pyramid.²²⁶ The goal ought to be that the balance of service provision to children and families, aimed at prevention of child abuse and neglect, should reflect the shape of that pyramid.

Achieving a shift towards primary and secondary prevention is, however, easier said than done. This is because of the enormous and increasing demands for services targeted at children who have already been identified as having suffered harm and who have been reported to child protection departments. That is, the lion's share of resources focused on child protection goes to tertiary prevention.

225. Australian Medical Association, above n 126; B Jordan and R Sketchley, *A Stitch in Time Saves Nine: Preventing and responding to the abuse and neglect of infants*, Child Abuse Prevention Issues no 30 (Australian Institute of Family Studies, 2009); J Cashmore, D Scott and G Calvert, Submission to the Special Commission of Inquiry into Child Protection Services in NSW, *Inquiry into Child Protection Services in NSW* (March 2008); D Higgins and I Katz, 'Enhancing Service Systems for Protecting Children: Promoting child wellbeing and child protection reform in Australia' (2008) 80 *Family Matters* 43-50; M O'Donnell, D Scott and F Stanley, 'Child Abuse and Neglect – is it time for a public health approach?' (2008) 32 *Australian and New Zealand Journal of Public Health* 325-330; Wood, above n 39; D Scott, 'Towards a Public Health Model of Child Protection in Australia' (2006) 1 *Communities, Families and Children Australia* 9-16.

226. Council of Australian Governments, above n 34, 8.

There are powerful arguments for the proposition that some of this money is not well-spent – that is, that child protection systems have become too driven by responding to notifications of abuse and neglect, too reactive, and too focused on investigation.²²⁷ When cases of reported abuse and neglect are ‘confirmed and closed’, as happens not infrequently, the work done to record the notification and to investigate it, may not actually lead to improvements in the life of the child about whom that concern has been expressed. Mandatory notification policies have had their time and fulfilled their purpose, but it is time to redirect the resources dedicated to child protection to interventions that are more likely to make a difference.

As the earlier chapters demonstrate, efforts at preventing child abuse and neglect need to be seen as part of a broader goal of reversing the deterioration in the social environment in which children grow up. The rapidly increasing level of reports of child abuse and neglect, and the apparently inexorable growth in the numbers of children in out-of-home care, is a symptom of a greater problem. While not all problems faced by Australia’s children today, by any means, can be attributed to the consequences of unstable relationships, the fragility of Australian families over recent generations has been a major contributing factor. It is clear from all the research that an effective primary prevention strategy must address family conflict and family breakdown if Australia is to reverse the decline in the emotional wellbeing of children and young people.

In particular, there needs to be a major focus on preventing family breakdown and on reducing the incidence of family violence, if children are to experience safer, more stable and more nurturing home environments. However a lot of interventions to support families occur only after serious problems are identified. The Centre for Social Justice in Britain has commented:²²⁸

“Family support can be seen as a spectrum, ranging from *preventative* (strategies for healthy relationships) to *remedial* (strategies for dealing with specific problems) to *treatment* (strategies for dealing with persistent problems). In practice, almost all current family policy that is described as *preventative* might be better described as *remedial*.”

There needs to be a shift towards primary prevention in terms of promoting healthy relationships.

227. See O'Donnell, Scott and Stanley, above n 225; Scott above n 225.

228. Social Justice Policy Group, *Breakthrough Britain: Ending the costs of social breakdown* (The Centre for Social Justice, July 2007) vol 1, 46.

Family stability and the national plan for child protection

The importance of family stability as a way of preventing child abuse and neglect is recognised in the Council of Australian Governments' strategic plan for child protection. This aims to coordinate and support a national shift towards prevention. The Council of Australian Governments has set an objective of a substantial and sustained reduction in child abuse and neglect in Australia over time. To achieve this, the first of its supporting outcomes is that 'children live in safe and supportive families and communities'.²²⁹ That expresses two goals for public policy. The first is to improve children's wellbeing through strengthening family relationships. The second is to enhance the level of community support for children.

How can governments help to ensure that children live in safe and supportive families and communities? Much may be learnt in Australia from the new directions that are emerging in the United States. US policy is now to coordinate efforts across the country to try to promote safe, stable, and nurturing relationships between children and adults, and to enhance various protective factors that improve parental resilience.

Safe, stable and nurturing relationships

Children need to feel safe, and to be protected from physical or psychological harm. They need to have a stable home environment - one in which children experience predictability and consistency. A stable environment provides children with a sense of security and coherence, and enables them to perceive the world as predictable and manageable. However, it is not enough that children are safe and in stable families. They also need to experience nurturing relationships. A nurturing relationship is one in which the parent or other caregiver is able to respond sensitively to the needs of the child. The opposite of a nurturing relationship is one that is characterised by physical or emotional neglect.

Aiming to ensure that children have safe, stable and nurturing relationships with adults is, according to a leading US health agency,²³⁰ a key strategy for preventing maltreatment. The Centers for Disease Control and Prevention explain the rationale as follows.²³¹

"Safe, stable, and nurturing relationships (SSNR) between children and their caregivers are the antithesis of maltreatment and other adverse exposures that occur during childhood and compromise health over the lifespan. Young children experience their world through their relationships with parents and caregivers. These relationships are fundamental to the healthy development of the brain and, consequently, the development of physical, emotional, social, behavioral, and intellectual capacities. From a public health perspective, the promotion of SSNRs is, therefore, strategic in that, if done successfully, it can have synergistic effects on a broad range of health problems as well as contribute to the development of skills that will enhance the acquisition of healthy habits and lifestyles."

229. Council of Australian Governments, above n 34, 15.

230. Centers for Disease Control and Prevention (CDC), *Strategic Direction for Child Maltreatment Prevention: Preventing child maltreatment through the promotion of safe, stable, and nurturing relationships between children and caregivers* (Department of Health and Human Services) <http://www.cdc.gov/ViolencePrevention/pdf/CM_Strategic_Direction--Long-a.pdf>.

231. Ibid 3.

Promoting protective factors

The second key focus is to promote the protective factors in families that will help parents to manage when they are experiencing significant challenges, hardships and difficulties, and which help children in these circumstances. Protective factors serve as buffers, helping parents to find resources, support, or coping strategies that allow them to parent effectively, even in times of stress.

The US Administration for Children and Families, within the Department of Health and Human Services, lists five protective factors that organisations working with families should seek to promote.²³²

These are:

- Nurturing and attachment.
- Knowledge of parenting and youth development.
- Parental resilience.
- Social connections.
- Concrete supports for parents.

These are explained as follows.²³³

- **Nurturing and Attachment.** A child's early experience of being nurtured and developing a bond with a caring adult affects all aspects of behavior and development. When parents and children have strong, warm feelings for one another, children develop trust that their parents will provide what they need to thrive, including love, acceptance, positive guidance, and protection.
- **Knowledge of Parenting and of Child and Youth Development.** Discipline is both more effective and more nurturing when parents know how to set and enforce limits and encourage appropriate behaviors based on the child's age and level of development. Parents who understand how children grow and develop can provide an environment where children can live up to their potential. Child abuse and neglect are often associated with a lack of understanding of basic child development or an inability to put that knowledge into action. Timely mentoring, coaching, advice, and practice may be more useful to parents than information alone.
- **Parental Resilience.** Resilience is the ability to handle everyday stressors and recover from occasional crises. Parents who are emotionally resilient have a positive attitude, creatively solve problems, effectively address challenges, and are less likely to direct anger and frustration at their children. In addition, these parents are aware of their own challenges—for example, those arising from inappropriate parenting they received as children—and accept help and/or counseling when needed.

232. See also the similar, but not identical list, developed by the Center for the Study of Social Policy in Washington DC: Center for the Study of Social Policy, *Strengthening Families: Protective Factors: The five protective factors* <http://www.strengtheningfamilies.net/index.php/main_pages/protective_factors>.

233. Administration on Children, Youth and Families, Administration for Children and Families, U.S. Department of Health and Human Services, *Strengthening Families and Communities: 2011 resource guide* <www.childwelfare.gov/pubs/guide2011/guide.pdf#page=21>.

- **Social Connections.** Evidence links social isolation and perceived lack of support to child maltreatment. Trusted and caring family and friends provide emotional support to parents by offering encouragement and assistance in facing the daily challenges of raising a family. Supportive adults in the family and the community can model alternative parenting styles and can serve as resources for parents when they need help.
- **Concrete Supports for Parents.** Many factors beyond the parent-child relationship affect a family's ability to care for their children. Parents need basic resources such as food, clothing, housing, transportation, and access to essential services that address family-specific needs (such as child care and health care) to ensure the health and wellbeing of their children. Some families may also need support connecting to social services such as alcohol and drug treatment, domestic violence counseling, or public benefits. Providing or connecting families to the concrete supports that families need is critical. These combined efforts help families cope with stress and prevent situations where maltreatment could occur.

There is, of course, some overlap here with what is involved in supporting safe, stable and nurturing relationships between children and adults.

Family support programs in Australia

In Australia, various programs either delivered by, or funded by state, territory and federal governments support these two main child abuse prevention strategies. In particular, non-profit professional organisations, with funding mainly from governments, provide support for family relationships, and assist parents who have serious difficulties in a variety of ways.²³⁴ Programs include relationship education, counselling, family support services and services for separated parents.

The Federal Government has developed a revised program for funding family support work which has four key elements.²³⁵ These are:

1. Communities for Children, providing prevention and early intervention to families with children up to 12 years, who are at risk of disadvantage and who are not in touch with children's services.²³⁶ Currently this program operates in 45 locations around Australia.²³⁷ Activities funded under this program include home visiting, early learning and literacy programs, early development of social and communication skills, parenting and family support programs, child nutrition, and community events to celebrate the importance of children, families and the early years.

234. See for example, Burnside's Newpin program: Newpin, *About Newpin* (2011) <<http://www.newpin.org.au/about-newpin/about-newpin>>.

235. Hon Jenny Macklin MP, (Speech delivered at the Family Relationship Services Australia Conference 2010, Melbourne, 3 November 2010) <http://www.jennymacklin.fahcsia.gov.au/speeches/2010/Pages/family_conf_3nov10.aspx>. See also Department of Families, Housing, Community Services and Indigenous Affairs, *Family Support Program* (6 June 2011) <http://www.fahcsia.gov.au/sa/families/progserv/familysupport/Pages/default.aspx#sec_2>.

236. See Department of Families, Housing, Community Services and Indigenous Affairs, *Communities for Children* (26 May 2011) <<http://www.fahcsia.gov.au/sa/families/progserv/communitieschildren/Pages/default.aspx>>. See also Mission Australia's program: Mission Australia, *About us*, Communities for Children <<http://www.mac4c.com.au/>>.

237. Eleven are located in New South Wales, eight in Queensland and eight in Victoria, six in Western Australia, five in South Australia, four in the Northern Territory and three in Tasmania.

2. Family counselling – dealing with adult relationship issues, counselling for children and broader parenting support.
3. Specialist services for dealing with vulnerable families affected by issues such as drugs, violence and trauma.
4. Community Playgroups, supporting parents with young children.

State and territory governments also fund a range of early intervention and intensive family therapy programs for families where there is a risk of child abuse and neglect.

The need for community involvement

While government must play its part, either by direct services or by funding professional non-government organisations to do so, an expansion of government-funded services is not on its own sufficient as a way of achieving the successful transformation of Australian society and promoting the wellbeing of children.

Certainly, there is a pressing need for an expansion of existing programs aimed at families with children where there is a risk of child abuse and neglect. However, there are limitations on the extent to which the work of rebuilding strong families in Australia can depend on professionals, given the costs involved. As long as programs rely essentially on government funding, and are delivered through paid professionals, the level of need is likely to far outstrip the resources available. This is not a criticism of governments. Government-funded services that promote family stability and improve parent-child relationships must compete with a great range of other demands on the public purse. As the Australian population ages, the costs of state-funded pensions and of the health system will put increasing and sustained pressure on government budgets. As the population increases, as it is predicted to do rapidly in the first half of this century, this will put increasing pressure on infrastructure. In addition to these costs, state and federal governments must cope with the damage that has already been done to the present generation of parents and children through the decline in quality of the social environment. Those costs take a myriad of forms, including the costs of welfare benefits to single parents, the costs of resolving family law disputes and maintaining the child support collection system, and more generally, the costs arising from the declining state of the nation's mental health. Government resources have to be allocated to meet a great variety of different needs, with few organisations ever believing that they are adequately funded. There is never enough.

- What is needed is a partnership between government, professional organisations and local communities to support families and children.

It is important therefore, that governments, and in particular the Federal Government, invest in building community capacity to strengthen family relationships and to support vulnerable families. This is in addition to the professional services which are so desperately needed and so thinly stretched. Mobilising communities to protect children and support families is essential, not only because the demands on the public purse are already so great, but also because there are good reasons to try to rebuild community structures to support families. Neighbours and friends continue to be there long after professionals have ceased to be involved. In any event, as a society, we have become too dependent on governments as the source of remedies for social problems.

What is needed is a partnership between government, professional organisations and local communities to support families and children. As the Council of Australian Governments has said, to reduce child abuse and neglect.²³⁸

“Families, communities, governments, business and services all have a role. And we need to work together.”

How can local communities, and groups within those communities, help to promote safe, stable and nurturing relationships and to promote the protective factors? There are two main ways:

1. Through the development of relationship education programs in local communities, run by local community groups.
2. Through further development of family support programs in local communities.

These will be the subject of the next two chapters.

238. Council of Australian Governments, above n 34, 6.



CHAPTER 6

Strengthening Family Relationships

The need for relationship education programs

There is a great need to provide education programs about family life which will help address the knowledge deficits across the community through lack of healthy modelling in people's families of origin. In the British context, the Centre for Social Justice has well articulated the need for such programs to be widely available.²³⁹

"Increasing geographical mobility has meant that fewer people now live close enough to extended family to access traditional sources of immediate wisdom and support. Voluntary sector providers described to us how many parents and partners experience a sense of psychological isolation, all too aware of the shortcomings in their relational skills, but unaware of how improvements might be made to prevent future family breakdown. Further anecdotal evidence we received suggested that most people struggle with the concept of seeking advice on how to manage relationships at home, considering it is only for those with problems. 75% of all relationship support involves the treatment of problems, such as counselling through providers like Relate, rather than their prevention."

One of the key recommendations it made was for the development and national roll-out of a suite of relationship and parenting education programs.²⁴⁰

Similarly, the Australian Medical Association has identified the critical need to support parenting as a preventative strategy to reverse the deterioration in the emotional wellbeing of children and young people. In a position statement in 2010 it said.²⁴¹

"Parenting is a critical factor that impacts on many areas related to healthy child development. There is evidence that interventions and programs that facilitate appropriate parenting can enhance cognitive development and emotional wellbeing, as well as an improved sense of security in young children. More attention needs to be paid to educating and supporting new parents, in addition to providing extended parenting supports and education to vulnerable families."

A comprehensive relationship education program ought to cover both couple relationships and parent-child relationships, for the wellbeing of children depends critically on both. In the past, two kinds of program have been quite widely available in local communities, and still are. The first is a marriage preparation course, and the second, a preparation for childbirth course. While these programs still have an important place, they only address some of the need that there is. About 72% of couples live together for a period before marrying, while other couples may enter into non-marital cohabitation, and have children, without a clear intention to marry. The context for programs on newly forming couple relationships is therefore somewhat different from a generation ago.

239. Social Justice Policy Group, above n 228, vol 1, 17.

240. Ibid 48. Five streams, it recommended, should be targeted at the general population. These are pre-marriage education, antenatal classes, and parenting 0-5s, 5-11s & teens. They also recommended programs for lone parents, prisoners, military personnel and parents of children who have been taken into out-of-home care. For further details of the proposed streams, see H Benson, *Relationship Education Proposals* (Bristol Community Family Trust, July 2007) <[http://www.bcft.co.uk/images/Relationship education invitation scheme2007.pdf](http://www.bcft.co.uk/images/Relationship%20education%20invitation%20scheme2007.pdf)>.

241. Australian Medical Association, above n 126, 2.

Furthermore, it is now very common for couples who begin living together, or who plan to marry, to have a child from a previous relationship either living with them or visiting on a regular basis. The normal sequence of events a couple of generations ago, involving courtship, engagement, a wedding, living together and then having children, is less and less common as a life course. Even among those who are preparing for a first marriage, the sequence of events may well be quite different. They may have a child from a previous relationship, have commenced a sexual relationship during courtship with their intended marriage partner, then begun living together. They may well have children in the new relationship before marrying.

Couple relationship programs also need to meet the needs of those who have repartnered following the breakdown of a marriage or cohabiting relationship. Blended families and stepfamilies face particular challenges beyond the normal difficulties of maintaining a healthy couple relationship and raising children. There are not only the issues of children living together with different family histories, but also dealing with ex-partners who may be a regular part of life in these families. New family relationships often need to grow and develop in the shadow of the vestiges of former relationships. Marriage (and cohabitation) may be freely dissoluble, but parenthood is not.²⁴²

Where one or both people have children from previous relationships, their ex-partners can also impact upon their relationship. Blended families and stepfamilies need particular support if they are not going to lead to a breakdown that may cause further harm to children.

- Where one or both people have children from previous relationships, their ex-partners can also impact upon their relationship. Blended families and stepfamilies need particular support if they are not going to lead to a breakdown that may cause further harm to children.

A new initiative in relationship education

In order to meet the need of children for safe, stable and nurturing family relationships across the community, it is proposed that there should be a major new initiative in providing community-based education programs for couple relationships and parent-child relationships. These are not intended to replace the courses already offered by professional organisations, but rather to expand greatly their availability across the community by drawing upon volunteer resources to help deliver them.

The goal is that group-based courses on couple relationships and parent-child relationships would be delivered across the country by a range of organisations, including Parents and Citizens' Associations, community organisations such as Rotary or Lions Clubs, churches and other faith-based communities, Culturally and Linguistically Diverse organisations, gay and lesbian organisations, or indeed any other group willing to offer their time and facilities to provide programs for the local community or for a particular group within the community, such as recently arrived migrants.

242. P Parkinson, *Family Law and the Indissolubility of Parenthood* (Cambridge University Press, 2011).

Programs could also be developed through workplaces, particularly in the Defence Force and, for example, in mining towns where the employer has a central role within the local community. Programs could also be developed specifically for university campuses, targeted at the needs of young adults who are still working out their values, hopes and expectations in regard to family life.

Courses on couple relationships and parent-child relationships should not be seen as entirely distinct. It is now well-established that education on parenting needs to include material that stresses the importance of the couple relationship.²⁴³ Conversely, programs on the couple relationship need to address the stresses and strains that can be associated with child-rearing, especially in families where one or both adults have children from previous relationships.

Development of courses

These courses should be developed in partnership with established relationship counselling and educational organisations. Some will no doubt have suitable programs already. Even where programs already exist that are suitable for the majority of the population, it may be necessary and appropriate to develop specific programs for culturally and linguistically diverse communities where those programs do not already exist.

These programs would need to be tailored to the needs of modern families, including the increasing number of people who live together outside marriage, and for whom marriage is not necessarily something to which one or both people aspire or consider important. Programs ought to address issues that arise for blended families and stepfamilies. They should also include material about domestic violence. A screening questionnaire administered at the commencement of the program may help to identify relationships that are already affected by violence, and allow referral to appropriate sources of help. Education programs may therefore act as an early identification and referral strategy. Screening processes should also aim to identify those with mental health or other issues that might impair their ability to participate in group activities within the program, and/or which may need referral to professional services.

These programs need to be accessible to people who have varying levels of formal education. They ought to involve group discussion and participation, and use DVDs and other means of communication that do not involve too heavy a reliance on the written word.

243. P Cowan and C P Cowan, 'Diverging Family Policies to Promote Children's Well-being in the UK and US: Some relevant data from family research and intervention studies' (2008) 3(4) *Journal of Children's Services* 4-16; M Pinquart and D Teubert, 'Effect of Parenting Education with Expectant and New Parents: A meta-analysis' (2010) 24 *Journal of Family Psychology* 316-327.

Two models of delivery might work well in expanding community capacity. The first is to rely on sessional instructors, people paid to deliver these programs on an hourly-rate basis at evenings and on weekends in addition to the work they normally do.

The second model would be to rely on volunteer leaders. There is evidence from a randomised and controlled study in the US that ministers of religion provided with a minimum level of training in delivery of an established relationship enhancement program can produce better results than clinically-trained educators.²⁴⁴ The US researchers commented:²⁴⁵

“We believe this set of findings reflects the importance of having members of couples’ communities involved in the support and delivery of premarital intervention services. In this case, having known clergy and lay leaders, who are often part of the lives of newlywed couples, deliver the scientifically based knowledge that psychologists have garnered from skills-oriented relationship education programs seems to show some intervention benefits beyond the training imparted by unknown clinical experts.”

While it cannot be assumed that in Australia there would be similar findings from using ministers of religion, given the less religious culture here, the study nonetheless indicates that volunteers with professional backgrounds may be very effective in delivering such material.

- It focuses on reducing the challenges of new parenthood by strengthening the couple’s resilience, and by promoting self-care and community support, as well as providing research-based information about infant communication and development.

Programs designed for volunteer leaders might rely to a greater extent than those utilising sessional instructors, on DVDs and other such materials to deliver the core educational content of the programs. The role of volunteer leaders could be confined to hosting the event, showing the DVD and facilitating discussion groups.

There is extensive expertise in family and relationship education already in Australia, but there is also much that can be learned from recent overseas experience. In the United States, programs have been evaluated which target couples from lower socio-economic groups who have children but are not married. While the outcomes of the programs for these fragile families 15 months on has been mixed,²⁴⁶ one program which has proved its worth after rigorous evaluation on behalf of the US Department of Health and Human Services is the Becoming Parents Program, which has been trialled in Oklahoma and other locations.²⁴⁷

244. J-P Laurenceau, S Stanley, A Olmos-Gallo, B Baucom and H Markman, ‘Community-based Prevention of Marital Dysfunction: Multilevel modeling of a randomized effectiveness study’ (2004) 72 *Journal of Consulting and Clinical Psychology* 933-943.

245. Ibid 941.

246. R Wood, S McConnell, Q Moore, A Clarkwest and JA Hsueh, *Strengthening Unmarried Parents’ Relationships: The early impacts of Building Strong Families* (Mathematica Policy Research, 2010).

247. Becoming Parents Program (2010) <<http://www.becomingparents.com/>>. For further details of the Oklahoma evaluation, see B Devaney and R Dion, 15-Month Impacts of Oklahoma’s Family Expectations Program (Mathematica Policy Research, August 2010). See also R Dion, S Avellar and E Clary, The Building Strong Families Project: Implementation of eight programs to strengthen unmarried parent families (Mathematica Policy Research, May 2010). These are available at <<http://www.buildingstrongfamilies.info/>>.

The Becoming Parents Program was designed for couples who are having their first child together. There are two versions, one for general community use and the other for low income and low literacy families. While the program was designed by nurses and includes input from those with nursing training, it seeks to go far beyond the traditional program that prepares couples for childbirth. The goal is to prepare them for parenthood and to help strengthen the couple relationship at a time when they are particularly open to information and advice, and seeking to build a long-term family life together.

The program seeks to help expectant couples to strengthen their own relationship while providing tools for understanding the new baby that is coming into their life. It focuses on reducing the challenges of new parenthood by strengthening the couple's resilience, and by promoting self-care and community support, as well as providing research-based information about infant communication and development. The philosophy of the Becoming Parents Program is succinctly stated in its general brochure:

"Here at the Becoming Parents Program the couple relationship is the priority. We take this approach because research has shown that children whose parents have a healthy couple relationship have better outcomes physically, cognitively, and socio-emotionally. For this reason, we combine evidence-based skills to strengthen relationships with tools to understand infants. Our goal is to equip couples for strong relationships and confident parenting, fostering children's ability to thrive."

This program relies on instructors paid on a sessional basis, rather than on volunteers, and implementation of a program of this kind would therefore require more funding than one utilising voluntary resources. However a program of this kind is not at all high-cost and this and other programs that have proven to be effective could provide a model, or inspiration, for new Australian initiatives adapted to our cultural and demographic context.

The role of relationship education and counselling organisations

Australia has a strong relationship education and counselling sector. More than 150 organisations are members of the peak body, Family Relationship Services, Australia.²⁴⁸ These organisations need to play an important leadership role in building community capacity in terms of relationship education. The proposed expansion of relationship education programs is intended to complement the valuable work that these organisations are already doing.

The established relationship organisations would be expected, as part of a funding contract with government, to provide training programs and leadership guides for the volunteers and sessional instructors, and to accredit people to run programs, as well as providing other background support. Training should include understanding of the help that can be provided through family support, child protection and domestic violence services. Community group leaders could be expected to refer individuals or couples needing this sort of help. Accreditation of sessional instructors and volunteers ought to involve some basic issues of suitability such as child protection checks, and ability to deliver the educational material. Completion of the training program would be essential for accreditation.

248. See Family Relationships Services Australia (2011) <<http://www.frsa.org.au>>.

Staffing the programs

The expansion of community capacity in terms of relationship education will depend critically on the availability of suitable sessional instructors and volunteers. There is no shortage of goodwill and commitment to local communities which can be harnessed. People with professional training and experience in the community service or education sectors who are not engaged in full-time employment might be pleased to have an involvement in supporting families and children on a sessional basis. These include parents who have taken time out of the workforce to care for children, and those who have taken early retirement. The newly retired, and those who have gone down from full-time to part-time work as they move towards retirement, are a particularly valuable resource to support families and communities.

Mainstreaming relationship education programs

The goal needs to be to mainstream relationship education programs so that they are readily available to people throughout the community and seen as something that anyone and everyone should do, engaging in different courses at different stages of the life journey.

While many such programs are available in churches and other faith-based organisations, only a relatively small proportion of the population attend religious gatherings regularly. People may not be comfortable attending courses run by counselling organisations either, because to do so may involve an assumption that they are having difficulties, either in the couple relationship or the parent-child relationship.

All parents, however, are in contact with the health and education systems. There are certain times in their lives when relationship education programs may be particularly helpful and appropriate, and seem relevant to people's daily lives, particularly at times of transition. There are five key periods of transition at which educational programs might be targeted:

(i) Beginning to live together

About 75% of those who end up marrying in Australia spend at least some time living together before marriage. Others who begin living together either do not see this as a prelude to marriage or have not given any particular thought to the issue. It follows that where possible, people should be encouraged to learn about how to make a cohabiting relationship work when they begin living together, or relatively soon afterwards. Any such program ought to examine what marriage is all about and the role of promise and commitment in providing stability and security to relationships. However, it should be designed to meet people where they are at, whatever their thoughts and intentions about the future of the relationship might be.

(ii) Preparing for marriage

Marriage preparation courses are perhaps the most well-established kind of relationship education program. Only 30 per cent of couples marrying in Australia attend some form of pre-marriage relationship education, and those who do so tend to be people with a religious faith who have not cohabited before marriage.²⁴⁹ Conversely, those people with characteristics that indicate a particular risk of relationship difficulties are under-represented.²⁵⁰ Ministers of religion and marriage celebrants are well-placed to encourage people who intend to marry to attend a relationship education program of some kind. The Attorney-General's Department guidance to marriage celebrants indicates that they have an obligation to do so,²⁵¹ however, this can be fulfilled just by giving couples a booklet.²⁵²

(iii) Preparing for childbirth

Another key time in a couple's life together is when preparing for the birth of a child, especially a first child, or in the first few months after a child is born. The birth of a child is a joyful and enriching event for couples, but it also brings significant strains and challenges as well.²⁵³

The time prior to childbirth is likely to be a time when prospective parents are particularly open to receiving information, advice and support, and when they will recognise the importance of maintaining a healthy relationship as parents, whether or not they are, at that stage, married or living together. Currently, women and men expecting the birth of a first child will very often attend a childbirth class, focusing on such issues as labour, childbirth and post natal care. It ought to be a major goal to encourage parents to participate in a 'becoming parents' program as well, either as a continuation of the relationships developed in childbirth classes, or by incorporating education on labour and childbirth into a more comprehensive program.²⁵⁴ Such programs could be made known through community health centres, GPs, obstetricians, hospital maternity wards and health visitors.

249. W Halford, C O'Donnell, A Lizzio and K Wilson, 'Brief Report: Do couples at high risk of relationship problems attend pre-marriage education?' (2006) 20 *Journal of Family Psychology* 160-163. See also R Parker, *Recent Progress in Marriage and Relationship Education in Australia* (Australian Institute of Family Studies, 2007) 4.249 Halford et al, above n

250. See also K Sullivan and T Bradbury, 'Are Premarital Prevention Programs Reaching Couples at Risk for Marital Dysfunction?' (1997) 65 *Journal of Consulting and Clinical Psychology* 24-30.

251. Attorney-General's Department, *Explanatory Material on the Marriage Act 1961 for Marriage Celebrants* (Australian Government, 2008) 18-19.

252. "As soon as practicable after receiving the NOIM (notice of intention to marry), an authorised celebrant must give to the parties a document outlining the obligations and consequences of marriage. This brochure is called *Happily Ever Before and After*, and indicates the availability of marriage education and counselling." Ibid 18. The Code of Practice also provides that celebrants should inform parties about the range of information and services available to them to enhance and sustain them throughout their relationship (ibid 19; Attorney-General's Department, *Code of Practice for Marriage Celebrants* (Australian Government) code 6 <<http://www.ema.gov.au/www/agd/agd.nsf/Page/RWP5DD10BDFCC12B210CA25720C0000D613>>).

253. G and N Williams, *Your Marriage Can Survive a Newborn* (B & H Books, 2005).

254. For a review of the research literature on what programs are needed to support couples manage the transition to parenthood, see R Parker and C Hunter, *Supporting Couples Across the Transition to Parenthood* (Australian Institute of Family Studies, 2011).

(iv) When children start primary school

In terms of parent-child relationships, the primary school years provide another opportunity to offer a relationship education program that is appropriately targeted. Whereas a 'becoming parents' program is inevitably likely to be focused on the early years of a child's life, a program on navigating the primary school years could help parents deal with the different issues and challenges that occur in raising primary school-age children. In such a program, relationship issues between the parents can also be addressed as a way of promoting safe, stable and nurturing environment for children at this stage of their lives.

(v) When children start high school

Adolescence involves other issues and challenges. Behavioural issues, boundaries around social activities and dating and a range of other issues can cause conflict between parents and teenagers. Programs aimed at parents of teenagers could address such issues along with positive messages about promoting the wellbeing of young people as they begin to make the transition to adulthood.

Programs for specific groups

In addition to these general programs, and programs designed to support couple relationships whatever stage of life they have reached, it is important also that there be targeted programs available to reach particular groups – in particular parents without partners who have the primary care of children, stepfamilies, and non-resident parents.

Recruitment to relationship education programs

Programs should aim to involve both men and women. In order to give both mothers and fathers a chance to attend, it would be useful to be able to provide child-minding facilities.

For each of the programs outlined above, there are obvious avenues for recruitment. Schools, and other organisations or services that have contact with parents, could be encouraged to advertise the availability of programs concerning parenting children of the relevant age group through newsletters and email mailouts. Indeed, programs of this kind are likely to be of direct benefit to schools to the extent that they help improve the home life of children and young people, and prevent family breakdown.

Programs to support couple relationships and parent-child relationships could also be promoted through having leaflets available or posters displayed at GPs' surgeries, supermarkets, community centres, libraries, child care centres, and out of school care services.

In order to facilitate participation, it may be necessary to provide child care as part of the program.

The role of government in promoting relationship education programs

State and federal governments need only play a very limited role in facilitating these educational programs. This is meant to be a community-based initiative, drawing on the energy and commitment of groups within the community, rather than governments. However, two main roles are envisaged for governments to fulfil.

(i) Grants to relationship counselling organisations and similar groups, to enable the development of programs.

Some organisations already have ample materials that can already be used or adapted. Others may need some support to develop such materials and training programs for volunteers. Organisations with experience in family relationship education and counselling would be invited to apply for funding to develop such programs and to provide training to volunteer leaders. They could also apply for funding in order to develop programs for particular culturally or linguistically diverse communities, in partnership with leaders of those communities.

In order to obtain development and training funding, the organisation would need to demonstrate either:

- a. That it is capable of delivering a high quality product for use in the general community.
- b. That it can meet the needs of a particular section of the community such as a cultural and linguistic minority who will best be reached by having materials in their own language that address issues in the context of the minority culture.

The funding program should support a diversity of approaches to family and relationship education but subject to covering some central issues in couple relationships and parent-child relationships respectively. It can be expected that many programs will emphasise the benefits of marriage as a way of formalising the commitment that couples make to one another, and its beneficial role in providing some stability and security for children. The content of courses would be up to the organisations that developed them, and community groups wishing to run programs ought to have a variety of courses to choose from.

(ii) Help in advertising the availability of programs to the general community.

Governments could support the distribution of information about approved programs through schools. In principle, advertising support ought to be available to any organisation that offers programs for the general community (or a specific section of the community such as an ethnic minority), and that uses a program which has been approved for use by the government.

Cost

Courses ought to be free, in order to attract maximum participation. In the first four years, there will be a need for greater funding than will be required on an ongoing basis. The first four years will be a development phase as relationship counselling organisations seek funding to develop and adapt existing materials to meet the specific needs and requirements of the program – in particular delivery by volunteers and sessional instructors – and allocate funding for the preparation of materials to be used with specific groups where they do not already exist.

There will also need to be an injection of funds in the first four years to engage in a substantial initial training program. The support function of family relationship organisations will need to continue after the first four years because training of new trainers is an ongoing need, as is advice and support for trainers who experience problems in the course of running a group. However, the funding cost will be much less than in the initial four year roll-out, and could be met by reallocation of the funds that are currently given for relationship education programs by the Department of Families, Housing, Community Services and Indigenous Affairs.

As will be seen in chapter 7, it is proposed that the costs incurred by local community organisations to put on relationship education programs, for example, advertising costs and the costs of producing materials, should be met to a large extent, if not entirely, from the proposed Community Trusts. However, in the first four years there is likely to be a need for modest funding to be made available by way of grants to local community groups in order to help put on these programs until such time as the Community Trusts gain momentum and attract sufficient funds for the programs to be sustained without additional government support.

Conclusion

In order to promote children's wellbeing, and to reduce levels of family conflict and breakdown, there is a need for exponential growth in the availability of relationship and parenting education programs. The goal should be to offer these in as many local communities as possible, with a variety of programs targeted at different life stages for couples and parents, and delivered by groups and organisations which would have a range of approved course materials to choose from. Such programs could either draw on sessional instructors or volunteers, and should be free of charge to participants. If such relationship and parenting education can become a mainstream aspect of family life in this country, then we may be able to begin repairing the social environment in which our children and young people are growing up.

Recommendation 1

That to further implement the National Framework for Protecting Australia's Children, and promote the emotional wellbeing of children and young people, the Federal Government should provide funding for a major new initiative to help strengthen relationships between couples and to support parent-child relationships. The funding, initially for a four year period, should be used:

- a. To assist in the development of education materials and the training of educators to offer relationship education programs in each local area, in workplaces and in universities.
- b. To encourage the development of materials, and the provision of programs, for culturally and linguistically diverse communities, that are offered in their languages and appropriate to their cultures.
- c. To encourage Parents and Citizens' Associations, community organisations such as Rotary or Lions Clubs, churches, other faith-based communities, Culturally and Linguistically Diverse organisations, gay and lesbian organisations and any other interested group to offer relationship education programs free of charge in their local community or in workplaces, or in universities, utilising trained volunteer educators, or educators paid on a sessional basis.

Recommendation 2

Programs on couple relationships should be offered both when people begin living together and when they are preparing for marriage. They should explore the benefits to the relationship of making the commitment of marriage, and address issues that arise for blended families and step-families. They should also include material about domestic violence.

Recommendation 3

A screening questionnaire should be administered at the commencement of the program to identify relationships that are already affected by violence, and allow referral to appropriate sources of help.

Recommendation 4

Programs on parent-child relationships should address the importance of a healthy relationship between the parents for the wellbeing of children.

Recommendation 5

Programs on parent-child relationships should be developed for the following stages of parenthood, and should aim at involving both mothers and fathers:

- Preparing for childbirth.
- Starting primary school.
- Starting high school.

Programs on parent-child relationships should also be developed specifically for parents without partners who have the primary care of children, for stepfamilies, and for non-resident parents.

Recommendation 6

Programs should be accessible to people who have varying levels of formal education. They ought to involve group discussion and participation, and use DVDs and other means of communication that do not involve too heavy a reliance on the written word. They ought to be capable of delivery by volunteer leaders or instructors who are paid on a sessional basis.



CHAPTER 7

A Community of Neighbours

As noted in chapter 5, reducing child abuse and neglect, and improving child wellbeing, requires a two-pronged strategy: first to reduce the risk factors associated with adverse effects on children's lives, and secondly to promote resilience by supporting parents through difficult times. Of course, family conflict and family breakdown are not the only risk factors for children, but it is likely that they have been a major factor in the deterioration in the mental health of children and young people in recent generations.

The development of a major and ongoing initiative to mainstream relationship education in local communities is one strategy for responding to the deterioration in children's wellbeing, but it is not enough. There is also a need for programs that will support parents through tough times, and help build parental resilience. Australia already has some such programs, known as family support programs, but there is a great need for more of them.

Family support programs

Family support programs are relatively low-cost preventative services, that aim to reduce the risk of child abuse and neglect. They may provide counselling, run groups and courses on parenting, self-esteem, relationships, money management, household management, and other such issues, conduct children's activities, for example, programs for children affected by domestic violence, self-help groups, and community-building activities for parents to be able to build support networks. They may also advocate for clients who are having problems dealing with government or other agencies.²⁵⁵ They fulfil an important role in advancing social inclusion, particularly by promoting the conditions that allow children to participate in and benefit from mainstream life.²⁵⁶

Local family support services are critical to the support of parents who are struggling. Such services complement the more specialised professional services aimed at therapeutic interventions such as intensive family therapy programs, mental health services, and programs for the treatment of addiction.

255. See, for example, in NSW: FamS: NSW Family Services Inc (2011) <<http://www.nswfamilyservices.asn.au/what/46-programs.html>>.

256. C Caruana and M McDonald, *Social Inclusion in the Family Support Sector* (Australian Institute of Family Studies, March 2011).

Family support services work predominantly with families where either there have already been reports of abuse or neglect, or there is a risk of that. In New South Wales, for example, organisations affiliated with the New South Wales family services association help 20,000 families with 35,000 children each year. Predominately they are low-income families in Department of Housing or private rental accommodation, and their main source of income is Centrelink benefits. According to one analysis, in 36% of these families there are known child protection concerns and in 42%, there is domestic violence.²⁵⁷ There is a family support service in 79% of local government areas in New South Wales, but most services are very small, and funding for such services is modest. These services have to turn away one in six of the people who are referred to them.²⁵⁸ Given the level of demand reflected in the child protection notification statistics, it is likely that many more referrals could be made if more services were available and existing services had a greater capacity.

- Given the level of demand reflected in the child protection notification statistics, it is likely that many more referrals could be made if more services were available and existing services had a greater capacity.

There are also a range of more targeted programs to support vulnerable families, particularly in areas of social disadvantage. However, the services that exist are a drop in the ocean of need, or to put it differently, are only able to achieve a fraction of what could be achieved if the resources were greater and the programs more widespread. For example, the Communities for Children program, funded by the Federal Government, is an excellent initiative, providing support to families with children up to 12 years old, who are at risk of disadvantage.²⁵⁹ Its activities include home visiting, early learning and literacy program, early development of social and communication skills, parenting and family support programs, child nutrition initiatives, and community events to celebrate the importance of children, families and the early years. There are 45 sites currently funded under this program. Eleven are located in New South Wales, eight in Queensland and Victoria, six in Western Australia, five in South Australia, four in the Northern Territory and three in Tasmania. Choosing where to run such programs must be very difficult, as so many more communities could benefit from this kind of support.

There is a great need for more such services. Family support services ought to be seen as a front-line strategy in promoting the protective factors that will reduce the incidence of child abuse and neglect and improve children's wellbeing.²⁶⁰ In particular, they can help develop parental resilience, reduce social isolation, and help to provide practical supports for parents.

257. Data from presentation by Sue Richards, CEO of NSW Family Services, 21 August 2009, available at <<http://www.nswfamilyservices.asn.au/keep-them-safe.html>>.

258. Ibid.

259. Department of Families, Housing, Community Services and Indigenous Affairs, above n 236. The Program has received a positive evaluation. See B Edwards, S Wise, M Gray, A Hayes, I Katz, S Misson, R Patulny and K Muir, *Stronger Families in Australia Study: The impact of Communities for Children* (Department of Families, Housing, Community Services and Indigenous Affairs, 2009).

260. See chapter 5.

To say that the provision of family support programs does not begin to meet the level of need is not a criticism of either state and territory governments or the Federal Government. As noted in chapter 5, there is never enough. Reliance upon government is actually part of the problem, not the answer. If there is to be the kind of new effort needed to repair the social environment, then it cannot come just from government, even though government needs to play a facilitative role. The key to repairing the social environment is to mobilise community support, community care, and community pride.

Volunteers and family support

While a family support service needs professional staff to manage and coordinate the different aspects of the work of the service, much can also be done using volunteers, with benefits not only for recipients of services, but in building cohesive and supportive communities of neighbours. Volunteers, for example, might help single mothers with shopping, provide respite care of the children for a morning, or support struggling families by helping mow the lawn or repairing things around the house. Food deliveries can also be a practical means of providing support to families going through difficulties.

Volunteer programs can also provide support to vulnerable children. One shining example is World Vision's program, Kids Hope Australia.²⁶¹ This is a partnership between local churches and primary schools. The schools, through classroom teachers, identify children who have behavioural difficulties or other problems that indicate a need for additional support. The churches provide a volunteer mentor who meets the child, on a one-to-one basis, for about an hour per week, during school hours. The program has proved extremely successful, with the demand for mentors often far exceeding the supply available from local churches.

Only a relatively small percentage of the population go regularly to church, and only some local churches participate in this program. The expansion of a program of this kind, with continuing screening and training of volunteers, could meet the needs of many vulnerable children in Australia who would benefit from having another interested and nurturing adult involved in their lives.

Another community-based program that utilises volunteers to support vulnerable children and families is Aunties and Uncles, a program run under the auspices of Wesley Mission.²⁶² This organisation places children up to 12 years old with a stable, caring family for one weekend per month. The aim is to offer the child the experience of having an extended family who provide mentoring and guidance in a stable family environment. The time spent with the aunty and uncle also provides the primary caregiver, who is often a single parent, with a much needed break from the demands of parenting.

261. World Vision Australia, *Kids Hope Aus* <<http://www.worldvision.com.au/ourwork/solutions/KidsHopeAus.aspx>>.

A third example of a successful program using volunteers is the Home-Start program organised by the Family Action Centre at the University of Newcastle.²⁶³ This is a voluntary home-visiting program that supports families with children under five. Co-ordinators match trained volunteers with families in need of support, and these volunteers work on a one-to-one basis providing practical help and friendship to the family through regular home visits. Home-Start has 70 volunteer visitors, selected for their parenting experience, caring attitudes and ability to relate to others.

These and many other such volunteer-based programs can make the world of difference in children's lives. They do not require huge financial resources. More than anything else they require people who believe that it takes a village to raise a child. The challenge is to rebuild a sense of community in each local area that will see the growth and development of programs such as this – especially in the most disadvantaged areas. What is needed is that we become more of a community of neighbours.

Building community support for families and children

Extending the reach of community-based supports for families and children is likely to be a key to reversing the serious deterioration in children's wellbeing and in reducing the number of children for whom there are significant child protection concerns.²⁶⁴

Providing more community support for parents and children is likely to have benefits in primary, secondary and tertiary prevention. At the level of primary prevention, reducing the social isolation of single mothers and providing support for them to alleviate some of the stresses of the parental role may make it less likely that the children will be reported as being at risk of abuse. Having family support programs in place to which families can be referred where there is an identified risk of child abuse and neglect is a constructive means of moving beyond a surveillance approach to child protection and towards targeted and positive assistance. Reducing social isolation may also reduce the likelihood of children having to be taken into out-of-home care.

An example of what can be achieved with effort and co-ordination is what happened in Windale, in the Lake Macquarie area of New South Wales.²⁶⁵ This community, which contains extensive public housing, was one of the most socially disadvantaged communities in the State. It was also in the worst 1% of suburbs in terms of the proportion of child protection cases relative to the number of children in the local population.

- Windale moved from being in the worst one per cent of suburbs in New South Wales in terms of child protection notifications to the best 25 per cent, only four years later.

262. Aunties and Uncles <<http://www.auntiesanduncles.com.au/>>.

263. *Home-Start*, The University of Newcastle Australia <<http://www.newcastle.edu.au/research-centre/fac/programs/home-start/>>.

264. As Higgins and Katz have stated, "it is important to consider ways of enhancing the ability of communities to keep children safe and well". Higgins and Katz, above n 225, 46.

265. This account is taken from A Blakester, 'Practical Child Abuse and Neglect Prevention: A community responsibility and professional partnership' (2006) 14(2) *National Child Protection Clearinghouse Newsletter* 2-10, 3.

Funding was given for a three year project to engage in a process of community renewal. Central to the strategy was the establishment of a community centre led by a community committee, and attached to the local primary school. It is known as the Alcazar Centre.

Programs initiated in Windale included parenting classes, a program for the staged introduction of preschool-aged children into school, social groups for isolated mothers, an Aboriginal health service and community nursing, improvements to the school, and enhancing parental participation, and other strategies to improve community wellbeing.

Windale moved from being in the worst one per cent of suburbs in New South Wales in terms of child protection notifications to the best 25 per cent, only four years later. Windale shows what can be achieved with a sustained and co-ordinated effort at community renewal.

Reducing reliance on Governments

The Windale experience also demonstrates the limitations of reliance on Government. The funding for this community renewal program ceased after three years, with the consequence that some of the advances made were not sustained. This is the fate of so many worthwhile pilot and demonstration projects. The allocated funding has a built in termination date, and money may not be able to be found within ongoing budgetary allocations for its continuation and replication elsewhere.

This has been the fate also of other community renewal projects. Commenting on this issue, Prof. Tony Vinson has written.²⁶⁶

“There have been instances in which relatively short-term supportive interventions (usually around two to three years) have seen crucial improvements including some in early life-stage wellbeing. Where this has happened, at least in three of the four New South Wales projects for which data is available, the cessation of the support program has seen a rebound to previous levels of disadvantage.”

It is important for this reason, to examine how to encourage a shared sense of responsibility for community renewal with less reliance on governments and paid professionals to do the work.

Experience elsewhere indicates that if the right structures are in place, people are very willing indeed to support local charities and to help combat disadvantage in their local communities. An example of this is the success of United Way in North America.²⁶⁷ United Way is essentially a federation of local organisations that engage in fundraising for charities in their area and encourage volunteer involvement. Some United Way programs are based on city boundaries, and others on counties. Each has its own leadership, and considerable autonomy, but all United Way organisations are affiliated with the national body and share a common identity. There are also United Way organisations in other countries.²⁶⁸

266. T Vinson, *Dropping Off the Edge: The distribution of disadvantage in Australia* (Jesuit Social Services, 2007) 99-100.

267. For the US site, see *Live United*, United Way <<http://liveunited.org/>>. For the Canadian site see United Way Centraide: Canada <<http://www2.unitedway.ca/uwcanada/>>.

268. See *About United Way Worldwide*, United Way <<http://liveunited.org/pages/about-united-way-worldwide>>. United Way now operates in 45 countries and territories. It has a small presence in Australia: see United Way: United Way Australia <<http://www.unitedway.com.au>>.

United Way has proved very effective in fundraising for local charities. There is typically an annual fundraising drive, in which volunteers seek donations from colleagues in the workplace. There are also other fundraising initiatives through the year. In 2010, United Way in San Francisco's Bay Area had fundraising campaigns in more than 500 companies and received donations from more than 60,000 individuals. It raised \$34.6 million for the community.²⁶⁹ Money raised through these fundraising campaigns is then distributed to non-profit organisations. Increasingly, local United Way organisations engage in strategic planning around service delivery and target resources to achieve particular goals.

United Way also encourages volunteer involvement in local communities. For example, United Way Canada holds an annual Day of Caring in communities across the country. Teams of employees take time out of their workday to volunteer in their local communities. Ways they get involved include painting rooms in shelters, stocking shelves at food pantries, participating in local food drives and planting community gardens.²⁷⁰

What works well in one country may not work in another. Initiatives of this kind need to take account of the local context and particularly the incentives for philanthropy and community engagement.

Community Trusts

While there are organisations that engage in fund-raising and fund distribution for non-profit organisations in Australia,²⁷¹ and indeed United Way itself has a presence, mainly in Victoria,²⁷² there is a need for a major new initiative to support families and children in particular, based upon the idea of empowering local communities.

For this reason, it is recommended that Community Trusts be established, if possible, in each Local Government Area, to help fund relationship education, counselling, family support programs and other forms of community support to improve the wellbeing of children, in local communities.

One purpose of the Community Trust is to allow members of the public to make tax-deductible donations for the support of non-profit organisations that promote the wellbeing of children within the Local Government Area. Another purpose is to provide co-ordination and vision for the non-profit sector within the area, so that over time there can be an increasingly planned approach to the provision of services and action taken to try to fill gaps. The example of Norway is interesting here. All municipalities now have to provide family counselling centres, by law. A Community Trust could ensure a similar level of availability in its Local Government Area.

269. See *United Ways Role*, United Way of the Bay Area <<http://www.uwba.org/endpoverty/united-ways-role/>>.

270. See *United Way of Canada – Centraide Canada*, United Way Centraide <<http://www2.unitedway.ca/UWCanada/content.aspx?id=1140>>.

271. See for example, *Our Community: ourcommunity.com.au: Building stronger communities through stronger community organisations* <<http://www.ourcommunity.com.au/>>.

272. See United Way: United Way Australia, above n 268.

A local government area is not a community in itself. Typically, it comprises a number of different suburbs or towns, each of which is its own identifiable community. Using Local Government Areas to define the geographical basis of operation for each community trust is nonetheless the most convenient means of identifying the boundaries of operation for each community trust. It also has the advantage that community trusts can work together with local Councils in coordinating community service delivery.

The goals of each community trust should be:

- To raise funds for local area organisations that support children and families, with donations being tax-deductible.
- To distribute funds to local community organisations that fulfil the purposes of the Trust.
- Where needed, to co-ordinate and provide strategic leadership to local initiatives that seek to improve the wellbeing of children.
- To identify gaps in services and to develop priorities for filling those gaps over time.
- To monitor the effectiveness of strategies to improve children's wellbeing in the local area.

Governance

Each Community Trust should be set up as an independent non-profit company that acts as a trustee. It should be managed by unpaid directors who live in the Local Government Area and are respected members of the local community. The Community Trusts should be accountable to the new Australian Charities and Not-for-Profits Commission which is to be established by the Federal Government from 1 July 2012.²⁷³

The basic terms of each Trust should be set out using a model provided by the Australian Charities and Not-for-Profits Commission that could in principle be varied in each locality subject to approval by the Commission.

The Commission should be responsible for trying to ensure, over time, that a community trust is established in every Local Government Area. Local Councils and state and federal MPs should be encouraged to support the effort to ensure such Trusts are established.

Each state government should be asked to provide the small amount of money required to run each Community Trust. As far as possible, administrative support and financial management services should be provided by volunteers or on a pro bono basis.

273. As announced in the 2011-12 Budget. See *Establishment of the Australian Charities and Not-for-profits Commission Regulation Impact Statement – Treasury* (19 May 2011), Department of Finance and Deregulation: Office of Best Practice Regulation <<http://ris.finance.gov.au/2011/05/19/establishment-of-the-australian-charities-and-not-for-profits-commission-regulation-impact-statement-%E2%80%93-treasury/>>.

Distribution by trustees

The trustees should be required, at least once per year, to distribute funds to charities and other non-profit organisations that have active programs (as opposed to just administrative offices) in the Local Government Area, and which provide:

- Relationship education or counselling.
- Parenting education or counselling.
- Family support programs.
- Support for children and young people.
- Programs and services to build community engagement and to reduce the social isolation of parents.

Funding should be for the support of such programs. Ordinarily, it would be expected that community trusts would want to fund the services that have offices or premises within their Local Government Area. However, it should be sufficient that the community trust meets the needs of a client group that lives in the Local Government Area, and has offices or premises in an adjacent one. In some cases, local family support organisations or relationship counselling organisations serve clients from more than one Local Government Area.

Applications should be welcome from all organisations that have programs fitting the criteria, including local charities and other non-profit community organisations, churches and other faith-based communities, Culturally and Linguistically Diverse organisations, Parents and Citizens' Associations, and groups serving particular needs within the community such as children with disabilities.

The Trustees should be able to distribute funds to any organisation that meets the criteria. It should not be necessary that the organisation has tax-deductible status independently, nor that it is established formally as a legal entity. Money could be given to an unincorporated association that meets the criteria.

Tax-deductible status

Gifts to the Community Trusts should be tax-deductible. The advantage of this is that small family support organisations and unincorporated associations could achieve tax-deductible status without having to go through the considerable hurdles involved in securing that status independently. The Community Trust would have the tax-deductible status, and the organisations to which it could provide support should be defined by statute. It is envisaged that this would be a broader range of purposes than currently attract tax-deductible status, but the public benefit to be gained from mobilising community involvement and encouraging donations to support community organisations that will strengthen families and provide better support for children and others in need is considerable. Support of such organisations is demonstrably in the public interest.

Donations to specific organisations

Donors could nominate specific charities or non-profit organisations to which they would like their money to be directed, provided:

- That the organisation is one that fits the criteria for distribution by the Trustees.
- Subject to a standard overhead charge (to be no more than 15%).
- Minimum \$50 donation.

The purpose of these restrictions is to allow donors to make donations to specified organisations, while recognising that Community Trusts have some costs which ought to be equitably distributed between specific and untied donations. Donors have a choice whether to give directly to the organisation of their choice or to give through the Community Trust. In a situation where the organisation to which a donation is made does not have tax-deductible status, it is likely to be better, from the donor's point of view, to give money to the Community Trust.

Encouraging the use of volunteers

In the distribution of untied funds, preference should be given to organisations that can demonstrate that they involve volunteers in their work. Volunteers would not need to be in front-line service delivery. They could fulfil office functions or provide free services such as building maintenance, gardening, or accountancy services. Having a Board or an advisory committee consisting of local members should be encouraged, but participation by volunteers in this role should not itself be sufficient to qualify as an organisation that has volunteer involvement.

The purpose of this provision is to help encourage community participation in the delivery of services to families and children, and to encourage a greater sense of 'ownership' by the local community of services that are intended to benefit the area. Encouraging more volunteer involvement in the community helps build 'social capital', something that has been declining in Australia for generations.²⁷⁴ Volunteering in family support organisations is one way in which people who are unemployed may be able to make a contribution to the community, and lessen their own sense of social isolation. The greater the level of volunteer participation, the greater the level of return there is both for donors and for the taxpayer in terms of tax revenue forgone.

274. A Leigh, *Disconnected* (University of New South Wales Press, 2010).

Community trusts may also act as a focal point for volunteer efforts. Freeing up staff time to participate in work for family support organisations is a way in which local businesses can demonstrate their commitment to the communities of which they are a part. There is merit in the Canadian example of setting aside one day per year in which there is a coordinated effort at supporting vulnerable children and families for example, doing gardening or repair jobs for single parent families or those battling with sickness or other hardship.²⁷⁵ Clean Up Australia Day demonstrates the benefits in terms of community spirit, as well in terms of practical outcomes, when a well-publicised and coordinated effort of this kind occurs.

Accountability

Each organisation would need to be accountable for the use of its funding and its accounts should be audited. The Community Trust ought to collect statistics on each program to which it makes a grant, for example, by requiring organisations to complete a short, standardised questionnaire. However, bureaucratic control should be kept to the minimum necessary to ensure the money is spent in accordance with its purposes, in order to prevent significant costs in administration.

Raising money for the Community Trusts

A major purpose of community trusts will be to raise funds to support relationship education, counselling, family support programs and other work to improve the wellbeing of children, Community trusts could, for example, have an annual fund-raising drive supported by a community awareness campaign through local newspapers and radio.

Local Councils may be able to support community trusts by inviting ratepayers to round-up their quarterly or annual rate payments to the nearest dollar, with all such excess payments going into the Trust. If just 100,000 people agree to round up their rates by 40 cents per quarter, that generates an income of \$160,000 per annum for local charities and voluntary organisations. To promote the rounding up scheme, state governments should be encouraged to provide matching funding for rounding up donations in the first year of operation. Once a person volunteered to round up, that election would remain until cancelled.

The option to cancel should be offered each year on the rate notice to those who had chosen to do this, while those who had not done so should continue to be invited.

The Federal Government should develop a media campaign to promote awareness of community trusts and to encourage both ratepayer rounding up and tax-deductible giving in both the first and third years of the roll-out of the Community Trusts program.

275. This is known as a United Way Day of Caring: *In communities across Canada, volunteers participate in United Way Days of Caring* (3 June 2011), United Way Centraide: Canada <<http://www2.unitedway.ca/UWCanada/press.aspx?id=1148>>.

A co-ordinated approach to service delivery

Community trusts could also play an important role in co-ordinating the efforts of the non-profit sector within the Local Government Area. To achieve this, a services committee comprising leaders in local non-government organisations, community representatives, and at least one representative from the local Council, ought to be established to develop a planned approach to the support of families and children in the community, taking account also of the services being funded by the local Council, the state or territory government, and the Federal Government. The aim should be both to avoid unnecessary duplication and to identify gaps in service provision and support for families.

A co-operative approach at the local level may also improve outcomes from competitive tendering processes,²⁷⁶ as an area services committee, under the auspices of the Community Trust, may be well placed to give advice to funding bodies on which services would be most effective in delivering the services required.

Supporting disadvantaged communities

It is likely that some Community Trusts will receive much higher levels of support than others. Some Trusts may receive more financial support because of the socio-economic profile of the local authority area. Others may do well because of a strong sense of community in that area.

In order to provide support for disadvantaged communities, it is proposed that each Community Trust be permitted to donate up to 15% of its funds which have not been earmarked for specific organisations, to a Community Trust in a disadvantaged area designated as such by the Federal Government. Community Trusts in areas that are not disadvantaged should be encouraged to partner with a Community Trust in a disadvantaged area, with donors to the Trust and other stakeholders receiving information about how needs are being met in the partner Community Trust as well.

Members of the public should be allowed to donate to any Community Trust in Australia. It is proposed that if someone donates to a Community Trust in a disadvantaged area, and the postcode of their principal place of residence is not in that local government area, then the Federal Government should provide matching funds for this donation, up to a cap to be set by the Government.

No more than 20% of Community Trusts should be designated as being in disadvantaged areas. If the other 80% of Community Trusts partner with a disadvantaged area, then each such area will have 4 others that are able to provide it with financial support.

276. On this issue, see J Butcher and B Freyens, 'Competition and Collaboration in the Contracting of Family Relationship Centres' (2011) 70 *Australian Journal of Public Administration* 15-33.

Conclusion

Community trusts offer a means of providing additional funding support for relationship education, counselling and family support programs while at the same time building social capital and community awareness. They will provide people with the opportunity to support families and children in their community on a tax deductible basis, and provide a focal point for local fundraising and volunteering efforts. Community Trusts ought to be independent of local Councils, but should work in close co-operation with them, co-ordinating the efforts of all levels of government with the non-profit and volunteer sectors, to promote the wellbeing of children.

Recommendation 7

The Federal Government should support the establishment, in each local government area, of community trusts and give tax-deductible status to donations to such trusts in order to support children and families. The goals of each community trust should be:

- To raise funds for local area organisations that support children and families.
- To distribute funds to local community organisations that support children and families.
- Where needed, to co-ordinate and provide strategic leadership to local initiatives that seek to improve the wellbeing of children.
- To identify gaps in services and to develop priorities for filling those gaps over time.
- To monitor the effectiveness of strategies to improve children's wellbeing in the local area.

Recommendation 8

Each Community Trust should be set up as an independent non-profit company that acts as a trustee. It should be managed by unpaid directors who live in the Local Government Area and are respected members of the local community. It should be supervised by, and accountable to the new Australian Charities and Not-for-Profits Commission. The trustees should be required, at least once per year, to distribute funds to charities and other non-profit organisations that have active programs (as opposed to just administrative offices) in the Local Government Area, and which provide:

- Relationship education or counselling.
- Parenting education or counselling.
- Family support programs.
- Support for children and young people.

Preference should be given to organisations that can demonstrate the involvement of volunteers in the work of the organisation.

Recommendation 9

The new Australian Charities and Not-for-Profits Commission should develop a model of terms for each Community Trust that could in principle be varied subject to approval by the Commission.



CHAPTER 8

What Does Government Need to Do?

Governing with a light touch

The proposals made in the two preceding chapters need very little support from government, but they do need some legislative, financial and administrative facilitation, and some regulation and oversight. For example, there needs to be legislation to confer tax-deductible status on Community Trusts, and the expanded and volunteer-led family relationship education program will need some initial government support and ongoing facilitation.

A fundamental principle in determining the level of regulation and oversight ought to be that the regulatory burden should be kept to the absolute minimum necessary to ensure that funds are expended for the purposes for which they have been given, and that there is adequate screening of volunteer participants who work with children. It is all too easy to justify the growth of a new bureaucracy to regulate and control these new initiatives; but excessive regulation is both a waste of taxpayers' funds and can stifle people's enthusiasm and commitment. In particular the enthusiasm of volunteers to engage in family support and community renewal, is an infinitely precious resource that should not be squandered. This will require some conscious self-restraint by government.

Adopting a light touch to regulation is consistent with the Federal Government's reform agenda in establishing the Australian Charities and Not-for-Profits Commission. The Commonwealth's regulatory impact statement explained the rationale in terms of reducing the regulatory burden on Not-for Profit organisations, while ensuring transparency.²⁷⁷

"The regulatory burden faced by NFP entities operating with a high regulatory and compliance burden may be diverting scarce NFP resources away from intended targets toward administration and compliance expenses. Additionally, fragmented and inconsistent information coupled with a lack of publicly available information may be deterring philanthropic engagement."

There is a similar need to ensure that the new initiatives to support families, which will rely to a considerable extent on public generosity in terms both of money and time, will not be hindered by unnecessary and burdensome administrative and compliance requirements. For services that attract direct government funding as part of these new initiatives, there should be a firm policy of "report-once, use-often", in relation to data requests.

- ... it is proposed that there be a Families Commission, established by the Federal Government, that will have a strategic role in seeking to improve the wellbeing of families across the country.

277. Commonwealth of Australia, Regulatory Impact Statement, *Establishing a Regulator for the Not-for-profit Sector* (2011) 1.12 <<http://ris.finance.gov.au/2011/05/19/establishment-of-the-australian-charities-and-not-for-profits-commission-regulation-impact-statement-%E2%80%9393treasury/>>.

A commitment to multiculturalism

A second fundamental principle is to embrace a pluralistic and multicultural approach to the support of families. Australia is now a very diverse multicultural society. More than one in four Australians were born overseas, up from 10% just after World War II.²⁷⁸ Many more had at least one parent born overseas. The Australian population has a net gain of one international migrant every two minutes.²⁷⁹

Many of those who have migrated to Australia in the last forty years originate from the Middle East, the Indian subcontinent and Asia. The proportion of the population that originates from these parts of the world is likely to grow over the next thirty years, not only because of continuing migration but also because of the different fertility rates between cultures.²⁸⁰ These cultural groups tend to have more traditional views about family life, and more conservative moral values, than is typical of the European Australian population. Even within the European Australian population there is considerable diversity in terms of family values.

Family policy in Australia must therefore respect the fact that there is a range of views and values about family life. Ours is a multicultural society, and we must avoid the cultural myopia of insisting on progressive and secular Western values about family life as normative for the population as a whole. Those Western values have not, in any event, proved altogether successful in promoting healthy family life, or in creating the conditions in which children and young people can thrive.

A National Commission to promote family wellbeing

In order to provide support for the massive expansion in relationship education programs that is envisaged, and to provide national leadership, it is proposed that there be a Families Commission, established by the Federal Government, that will have a strategic role in seeking to improve the wellbeing of families across the country. A number of States have Children's Commissions, and some have advocated that one should be established at the federal level. A Families Commission is not an alternative to a Children's Commission. Indeed the one organisation could fulfil both functions. However, unlike the usual role played by Children's Commissioners, the Families Commission is not intended as a research and advocacy body pursuing a human rights mandate. Rather it is intended as an expert body, to be established under the auspices of the Prime Minister, and administered by the Department of Prime Minister and Cabinet, with specific responsibilities for promoting the wellbeing of families.

278. Australian Bureau of Statistics, *Migration, Australia, 2009-10* (2011).

279. See population clock at Australian Bureau of Statistics <<http://www.abs.gov.au>>.

280. E Kaufman, *Shall the Religious Inherit the Earth? Demography and politics in the twenty-first century* (Profile Books, 2011). The Australian Bureau of Statistics observes that in the current Australian population, the "overseas-born population from Asia, America and Africa had proportionally larger young (0-14 years) and working age (15-64 years) populations compared to those from Europe." Australian Bureau of Statistics, *Migration 2009-10*, Australia, Cat no 3412.0 (2011) 10.

Structure

The Commission should have a full-time President who is a person with a national reputation in the field of family relationships and who has an extensive knowledge about relationship counselling, education and parenting after separation. He or she should be appointed for a three year term and would ordinarily be expected to be seconded from an organisation concerned with family relationships, and to return to such a role at the conclusion of his or her term of office.

There should be four other members, appointed on a sitting fee basis, consisting of representatives working in the field of relationship counselling and mediation, child psychology, child protection or family law. The Director of the Australian Institute of Family Studies should be an ex-officio member of the Commission.

The Families Commission should also have an executive officer in charge of administration, and a complement of administrative and professional staff to support the work of the Commission, most of whose positions would be transferred from existing government departments.

Roles

The roles of the Commission would be as follows:

1. Oversight of the relationship education program

The Commission should be responsible for supporting and encouraging the development of the family relationship education program described in chapter 6. Its roles would include:

- Seeking expressions of interest from established non-profit organisations to develop relationship education programs for use in the general community or a specific sub-group within the community that meet the funding criteria set out in chapter 6.
- Approving educational programs for use in the general community or a specific sub-group within the community.
- Developing a readily identifiable logo that can be used by groups and organisations that provide relationship education in local communities, to show that they are using approved materials.
- Ensuring, as far as possible, that there is a choice of materials available to groups that want to run educational programs consistent with the government's commitment to pluralism and multiculturalism.
- Entering into contracts with relationship education and counselling organisations to provide 'train the trainer' programs, and to offer support to groups and organisations that provide relationship education in local communities.

- Developing standards for volunteers who have unsupervised contact with children (e.g. looking after children while a relationship education session is on). Standards should, for example, include that at least two carers are on at all times and that volunteers sign an appropriate declaration that they have not been charged with or convicted of child abuse.
- Offering public liability insurance coverage to groups who may need that cover as a condition for using third party premises when delivering relationship education programs.
- Dealing with complaints concerning educational programs that have utilised Commission approved materials and the Commission's logo in promoting the program.

2. Responsibility for the Family Relationship Centres

It would also make sense for the Families Commission to take over responsibility for the Federal Government's Family Relationship Centres. There are now 65 such centres across Australia, established as part of the Federal Government's family law reform package, announced by the then Prime Minister, John Howard, in 2004.

The Family Relationship Centres' main role is in helping to resolve parenting arrangements after separation. The Centres play a very important role as an early intervention strategy, helping parents to deal with the aftermath of relationship breakdown. As originally designed, the Centres offer one-on-one advice to people going through family difficulties, and free mediation to help parents manage the transition from parenting together to parenting apart. They also educate parents about the needs of children when parents live apart. Budgetary changes in the last twelve months mean that the Centres may no longer be able to offer free mediation to all clients in future.

The concept behind the Family Relationship Centres is that when parents are having difficulty agreeing on the postseparation parenting arrangements, they have a relationship problem, but not necessarily a legal problem. If no other solution can be found, the dispute may need to go to an adjudication by someone who can make a binding decision; but it should not be seen as a legal issue from the beginning.

One result of this early intervention strategy has been to reduce significantly the number of parenting matters going to court. An evaluation of the family law reforms by the Australian Institute of Family Studies found that the overall number of applications for final orders in children's matters (including cases where there were also property issues being litigated, declined by 22 per cent, from 18,752 in 2005-06 to 14,549 in 2008-09.²⁸¹ The number of such cases had been rising consistently over two decades,²⁸² and so the reversal of this trend was a very significant achievement.

²⁸¹ Kaspiew et al, above n 29, 304-05.

²⁸² See Parkinson, above n 242, ch 1.

While the Family Relationship Centres have a primary role in addressing issues following parental separation, they were not conceived originally as only focusing on separated parents. They were meant also to play a role in strengthening intact relationships by offering an accessible source for information and referral on relationship and parenting issues, and providing a gateway to other government and non-government services to support families. One such source of assistance is relationship counselling, but the Family Relationship Centres are also meant to offer a more holistic assessment of need. The breakthrough for one family might be to get the father to attend an anger management program. For another, it might be for the mother to seek help with an addiction such as gambling or alcohol. Another parent's need may best be met through parent-adolescent mediation services, or services to assist in troubled stepfamily relationships. The Family Relationship Centres cannot possibly provide all the services that people need, but it was designed as a gateway to those services.

The potential for a supportive and preventative role in strengthening family life and in helping people whose relationships are beginning to experience significant difficulties was a key rationale for the development of the Family Relationship Centres.²⁸³ The extent to which a Centre does so nonetheless depends on the organisation running it, and the level of demand for post-separation services in each community. To some extent, the vision for the Centres to play a role in preventing family breakdown by acting as a gateway to appropriate services, has been lost. This has much to do with issues about the funding and administration of the Centres, and the criteria on which the success of the Centres has been measured.

- To some extent, the vision for the Centres to play a role in preventing family breakdown by acting as a gateway to appropriate services, has been lost.

From the beginning, the work of establishing and administering Family Relationship Centres was split between two Federal Government departments. In practice, the Attorney-General's Department had the main responsibility for the program, but the Department of Family and Community Services and Indigenous Affairs, as it then was, had a junior partnership role in establishing the Centres. More recently, the administration of the Centres has passed to the Department of Families, Housing, Community Services and Indigenous Affairs, but funding comes from the Attorney-General's Department budget.

The question of which Department should be responsible for administering and funding the Centres is an important one. The Attorney-General's Department is understandably concerned with the Centres' role in mediation of post-separation parenting disputes. Consequently, it may measure the success of the Centres primarily in terms of agreements reached, and the reduction in court filings. That is one of the objectives of the Centres, but not the only one. The Department of Families, Housing, Community Services and Indigenous Affairs which administers the Family Support Program has broader concerns, and is more likely to measure the success of the Centres in ways that go beyond the diversion of 'cases' away from the courts.

283. Commonwealth of Australia, *Operational Framework for Family Relationship Centres* (2007) 2 <[http://www.ema.gov.au/www/agd/rwpattach.nsf/VAP/\(9A5D88DBA63D32A661E6369859739356\)~Operational+Framework+for+Family+Relationship+Centres.pdf/\\$file/Operational+Framework+for+Family+Relationship+Centres.pdf](http://www.ema.gov.au/www/agd/rwpattach.nsf/VAP/(9A5D88DBA63D32A661E6369859739356)~Operational+Framework+for+Family+Relationship+Centres.pdf/$file/Operational+Framework+for+Family+Relationship+Centres.pdf)>.

It is important to the work of the Centres that they adopt a holistic approach to the needs of clients, with the mediation pathway being just one way in which the Centres can help parents to manage family transitions and reduce conflict. Placing the budget, and responsibility for oversight, of the Family Relationship Centres with the Families Commission will enhance the capacity of the Centres to support the mandates of both government departments as well as contributing more broadly to the objectives of government in promoting the wellbeing of children. There will also be important synergies with the work of the Commission in providing oversight to the enhanced family relationship education program.

There are also advantages that could be gained in terms of more effective use of Family Relationship Centres' premises. Part of the original design brief for the Family Relationship Centres was that they should be centrally located, and fitted out in such a way as to create an inviting atmosphere. Their premises could be used after normal business hours by other organisations who provide relationship support services, making the Family Relationship Centres' premises more of a focal point for families with a variety of different needs.

To suggest that the Families Commission should take over responsibility for the Centres is not in any way to criticise the work of either government department to date in establishing the Centres. In fact the roll-out of 65 Centres in only three years was a very substantial achievement. However, the Centres will have the best chance now to develop and improve their practice, if oversight is given to an expert body, led by people with extensive experience in service delivery to families, who can utilise that expertise to promote best practice across the country.

It will also be beneficial to the work of the Centres if their mission is seen within a broader context of support to families in general, rather than being seen as an adjunct to, or a part of, the family law system.

3. Policy advice to Governments

A number of different Federal Government departments have responsibilities that affect families. That is true also for state government departments. These include departments responsible for family and community services, education, housing, health, welfare and other human services, child protection, juvenile justice, courts, employment and migration. Even that is not a complete list.

Australia is fortunate to have a highly respected research organisation, the Australian Institute of Family Studies, to conduct research on issues affecting families. Its work transcends the boundaries of responsibility between federal, state and local government. There is no similar body that can offer advice that crosses portfolios within the Federal Government, and boundaries between different tiers of government, in terms of policy development and coherence.

Certainly, some policy coordination is achieved by Central Agencies within government, such as the Department of Prime Minister and Cabinet at federal level, and between governments through the Council of Australian Governments.²⁸⁴ However, much greater policy coherence could be achieved if a national body such as the Families Commission was permitted to have a voice in commenting on policy developments that affect families, both in terms of promoting positive developments, and in expressing concerns about policy developments.

The Commission could provide advice generally in relation to initiatives which will have a positive or negative impact on families with children. In this respect, its staff could do at least some of the work done by staff within existing government departments, with the quality of its advice enhanced by having a leadership at the forefront of knowledge in family relationship issues, and able to draw on years of practical experience.

Such policy advice would be most effective if it were confidential and governed by the usual protocols concerning secrecy that apply to communications between the Public Service and government ministers. The Families Commission could report to the Prime Minister through the Department of Prime Minister and Cabinet in relation to Federal Government matters, and through the secretariat of the Council of Australian Governments in relation to matters that affect the work of the States and Territories. However, it would not have a mandate to comment upon policies, or emerging policy options, of individual State or Territory Governments unless specifically invited by a State or Territory Government to do so.

Of course, the policy advice role could be confined to the Federal Government if the State and Territory Governments, through Council of Australian Governments, did not want its remit to extend to their work. However, the greatest policy coherence could be achieved if the Families Commission could transcend the State and Federal divide, and help to break down the silos that exist between different tiers of government.

4. Community education campaigns

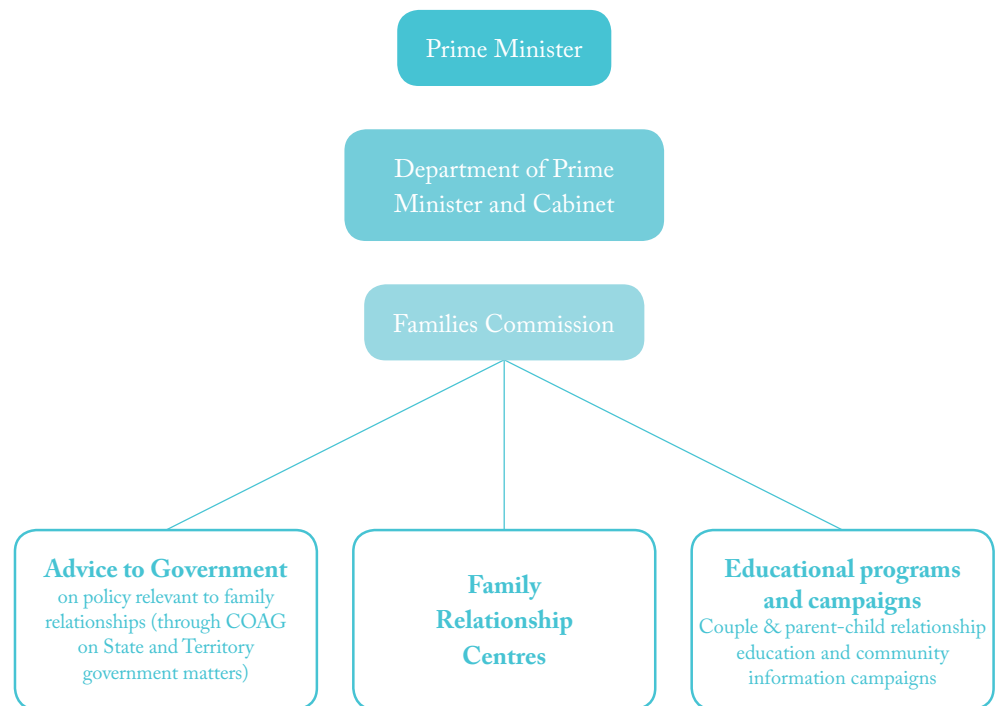
The Commission could also have an educative role, in co-operation with other Departments, in promoting targeted messages that will improve the health of family relationships.²⁸⁵ Examples would be a campaign to promote the benefits of counselling when relationships are in trouble, aimed at couples with children; an education campaign on the theme of “parenting is for life” promoting procreation within stable two-parent partnerships, or a campaign aimed at sexually active teenage boys helping them to understand their long-term parental responsibilities, including child support obligations.

284. On the very limited degree of collaboration across the state-federal divide at present, see G Winkworth and M White, ‘May Do, Should Do, Can Do: Collaboration between Commonwealth and State service systems for vulnerable children’ (2010) 5 *Communities, Children and Families Australia* 5-20.

285. A public health campaign on family relationships has been advocated, for example, by the Family Relationship Services Association: Family Relationships Services Australia, above n 248.

The Commission could also help sponsor speaking tours by leading experts both from within Australia and around the world. In addition, it could promote more local community-based education programs. These would run on a cost-recovery basis with the Commission being able to do more than smaller organisations because of its economies of scale and national profile.

Figure 7: Families Commission



Why can't this be done within existing Government departments?

The broad-ranging role proposed for the Families Commission in terms of policy advice, is sufficient answer in itself to the question of why these functions cannot be performed within existing departments of the federal Public Service. Nonetheless, that broader role might not be accepted; it might be argued that the oversight of the greatly expanded family relationships education program, federally, could remain with the Department of Families, Housing, Community Services and Indigenous Affairs, while the funding and governance arrangements of the Family Relationship Centres should remain as they are.

There is often some resistance within the Public Service to the idea of creating a semi-autonomous statutory public body, with an independent line of reporting to the Minister or Prime Minister, to carry out functions that would normally be the responsibility of a government department. There may be prosaic reasons for this – a diminution in budget, and a loss of some control over the advice that goes up to the Minister or Prime Minister.

However, there are also very sound practical reasons for resistance. There are costs involved in creating separate statutory bodies, over and above the costs that would otherwise be incurred if the work was performed within the departmental structure. There have to be separate financial accounts, and a separate annual report to Parliament. Another Head of Agency is created who must fulfil the generic reporting and compliance requirements that all Heads of Agency have within government, and who acts as a conduit for the dissemination of information and instructions to staff that come from the Minister or the Central Agencies.

Many of those administrative costs in setting up a Families Commission could be reduced by the use of departmental services for backroom operations, such as accounting, legal and IT services. Efficiencies could also be achieved by routinely seconding departmental staff, including an executive officer, to fulfil the administrative functions of the Commission. The most obvious source for this would be the Department of Families, Housing, Community Services and Indigenous Affairs. This eliminates most of the separate human resources costs involved in recruiting and training staff, and draws upon the administrative experience of departmental staff. Nonetheless, a semi-autonomous statutory body still involves more administrative overhead, and this needs to be justified.

The primary justification is the benefit to the work of government, and to the relevant government departments, of drawing upon specialist expertise for a specialist role, and utilising the practical and ‘grass-roots’ experience of people who have had careers in the field of service delivery rather than public administration.

While the Department of Families, Housing, Community Services and Indigenous Affairs has been able to attract some professional staff with experience in the field of human service delivery, its professional staff are most commonly career public servants with particular expertise in welfare benefits. This is because its main responsibility is a financial one. It administers a range of benefits, such as Parenting Payment and Housing Benefit, as well as Family Tax Benefit and subsidies for child care. These financial transfers from government to individuals and families comprise a significant proportion of all Federal Government expenditure, and staff with relevant backgrounds in economics and finance are recruited accordingly. There is also a tradition in the Department of constant rotation of professional staff between different divisions, ensuring that staff, over their careers, build up a diverse range of experience, rather than accumulating specialist expertise in one field.

What this means is that while the Department of Families, Housing, Community Services and Indigenous Affairs has great expertise and experience in many aspects of government support for families, and in contracting with non-profit organisations to deliver services, it is not well-placed to carry out the range of functions that, it is proposed, should be fulfilled by the Families Commission.

Recommendation 10

The Federal Government should establish a Families Commission to co-ordinate the work of the Government in strengthening family relationships and in reducing conflict between parents who have separated. The roles of the Families Commission should be to:

- a. Have responsibility for the implementation of the education programs on strengthening family relationships and supporting parent-child relationships.
- b. Provide insurance coverage for local education programs.
- c. Monitor success of programs and deal with complaints.
- d. Provide coordination and support for the national network of Family Relationship Centres.
- e. Provide policy advice to the state, territory and federal governments, in relation to initiatives which will have a positive or negative impact on families with children, reporting through the Department of Prime Minister and Cabinet to the Federal Government, and through the secretariat of the Council of Australian Governments in relation to matters that affect the work of the States and Territories.
- f. Promote targeted messages, through community education campaigns, that will improve the health of family relationships.
- g. Promote lecture tours and conferences involving leading experts on aspects of family life.

Reducing isolation:

A nationwide number for support services

The Families Commission is proposed as a Federal Government initiative. There is also a role for state and territory governments to fulfil other than to give modest financial support to the administration costs of the Community Trusts (see chapter 7). It is proposed that they should also help fund, in the respective state or territory, a special number to help people access appropriate community services.

Having organisations which are operating in local communities to provide support for families and people in need is only part of the answer to the problems faced by Australian families. It is also very important that people be able to access the services they need. In the USA, connection to services is achieved through a nationwide 211 number. It covers about 80% of the population, mostly through area-based call centres. In California, it is over 90%. A person with a particular need who doesn't know where to turn to for help can dial 211 and will be connected to his or her local call centre. This number operates on a 24/7 basis.

Staff of the centres listen to the person's needs and are trained to 'ask the second question' to identify the local support services that will most assist that person. They will then give them the information about the service and help them to access it. The average length of calls is 3-5 minutes. The service in the Bay Area of San Francisco costs about US\$2 million per year, servicing a population of 4.5 million, so it is relatively inexpensive. 211 services are organised in different ways in different areas. Some centres get local government funding, others rely mainly on privately donated funds and corporate donations.

There is no similar resource in Australia, although there are call-centres for a range of services, operated by different government departments at both state and federal level and by community organisations. In the Sydney Business and Government White Pages, there are four pages of organisations listed that provide different kinds of support. That is very helpful, but particularly so if a person knows what kind of help they need, and is simply looking for a phone number.

One of the biggest problems faced by people who are struggling with multiple problems and difficulties is knowing how to get help, and from where. What if people knew they could call just one number, such as 333, when they do not know where to turn in working out how to deal with their problems? A call centre operator might be able to deal with a particular problem fairly quickly by putting the caller through to the Poisons Information Centre, the Rape Crisis Centre or the Domestic Violence Line. Other callers are likely to need more time and local knowledge of the best services that might assist them. The strength of the 211 system in the United States is that, in the main, those responding to the 211 calls live in the area and are familiar with the local service providers.

A call centre of this kind could well make a great difference to people who might struggle otherwise to connect with local services. If it were to be implemented in Australia, it would be best to try it out first in one state or territory, preferably a less populated state such as South Australia or Tasmania. If successful, it might then be adopted by other states or territories. The Federal Government would need to facilitate this by acting to establish the nationwide number.

Recommendation 11

The Federal Government should establish an easily remembered, national phone number such as 333 for people in difficulties to be able to access government or community services that will most readily meet their needs, and which should be modelled on the 211 number in the USA. The number would be answered by staff in call centres based in major population centres who can listen empathetically to callers and direct them to services that are most likely to assist them. These call centres should be established by the States and Territories.

Reviewing family policy

A final role for governments is to review the direction of their family policy. In the last twenty years or so, the dominant policy direction has been to treat all families alike without reference to family structure. Typically, provisions in state, territory and federal legislation that once referred to ‘marriage’, a spouse, or a husband and wife, have been extended to include de facto couples, both heterosexual and same-sex. In some cases, the benefits and obligations that flow from being treated as a de facto couple are subject to a court being satisfied that the relationship has lasted a minimum length of time. With the exception of such minimum duration provisions, and the formal requirements for entry into and exit from marriage, there is now no difference between being married and living together in an informal domestic relationship.

At the federal level, welfare benefits, and payments to help with the cost of raising children, have typically been given without reference to the relationship status of the recipient parent. Additional support is given to single parents through Parenting Payment Single, Family Tax Benefit Part B, and other such measures.

It may well be that all of these policy settings are entirely appropriate. The question remains nonetheless, whether the country can afford any longer to adopt a position of neutrality concerning family form, and to give neither encouragement nor support to the institution of marriage. The rapid deterioration in the emotional health and wellbeing of children and young people documented in this Report ought to raise alarm bells about what is happening in terms of family life. The growing crisis in the nation’s mental health will only get worse if current trends continue.

Governments in Australia cannot continue to ignore the reality that two parents tend to provide better outcomes for children than one, and that the most stable, safe and nurturing environment for children is when their parents are, and remain, married to one another. The difference marriage seems to make is in the commitment that it involves, providing a greater degree of stability and resilience, especially when times are difficult. Marriage involves a decision to commit, to dedicate oneself to the other and to the partnership. By way of contrast, many people ‘slide’ into cohabiting relationships in a gradual process of transition from living apart to living together, without the same intentionality that a public decision to commit for the long-term future involves.²⁸⁶ Such relationships then prove less durable when there are difficulties. To say that marriage makes a difference is neither to denigrate other family forms nor to attribute blame. It is to recognise what is best for children, and that while governments should support all children, in all family forms, and help parents and children affected by family breakdown, it ought to do so in such a way that does nothing to undermine marriage.

286. W Manning and P Smock, ‘Measuring and Modelling Cohabitation: New perspectives from qualitative data’ (2005) 67 *Journal of Marriage and Family* 989-1002; S Stanley, G Kline Rhoades and H Markman, ‘Sliding Versus Deciding: Inertia and the pre-marital cohabitation effect’ (2006) 55 *Family Relations* 499-509.

Accepting that children do best when their parents are, and remain married, inevitably leads on to other questions. People will make their own choices whatever governments say or do, and government has a limited role in either regulation or persuasion. However, are there ways in which specific encouragement can be given to people to marry, by again differentiating the consequences of marriage from other kinds of relationship.²⁸⁷ Are there in some cases, financial penalties associated with getting married rather than living in a de facto relationship that ought to be removed.²⁸⁸ What can be done about welfare benefit policies which have the effect of discouraging people from living together at all.²⁸⁹ Are there policies which provide a perverse incentive for parents to separate?

There is also a need for more research on the marriage gap in Australia. The ‘marriage gap’ is the gulf between aspirations to marry and people’s lived experience as the years go by. US research indicates that the marriage gap is based upon socio-economic status and levels of educational attainment, as well as difficulty in finding a suitable marriage partner.²⁹⁰ Similarly, British expert Samantha Callan has observed.²⁹¹

“Aspirations to marry are universally high across the social spectrum but the cultural and financial barriers to marriage are hard to overcome in low income communities; and a great concentration of single parenthood here may not be an expression of diversity but paradoxically of reduced choice with inability to fulfil marital ambitions.”

Little is known about the marriage gap in Australia. Support for marriage remains strong with only about 16% of respondents aged 20-39 regarding marriage as an outdated institution according to a survey in 2005.²⁹² A 2008 survey of unmarried people in their mid-20s found that about 80% of both male and female respondents expected to marry some day.²⁹³ Yet there is a gap between intention, expectation and experience. While young people may end up marrying someone, at least by the time they are forty, that is all too often preceded by having children to partners other than the person they end up marrying, and often having children by more than one partner.

287. One area to which attention has been given in Britain is taxation policy. See eg Social Justice Policy Group, above n 228, vol 1, 64-66 and appendix.

288. In the USA, the ‘marriage penalty’, as it has been called, is a major cause for concern. See eg C Donovan, *A Marshall Plan for Marriage: Rebuilding our shattered homes*, Backgrounder no 2567 (The Heritage Foundation, 7 June 2011); A Roberts and D Blakenhorn, *The Other Marriage Penalty: A new proposal to eliminate the marriage penalty for low-income Americans*, Research brief no 3 (Institute for American Values, September 2006); A Carasso and E Steuerle, ‘The Hefty Penalty on Marriage Facing Many Households with Children’ (2005) 15 *The Future of Children* 157-175.

289. See in the UK, The Centre for Social Justice, *Dynamic Benefits: Towards welfare that works* (2009); The Centre for Social Justice, *The Centre for Social Justice: Green Paper on the Family* (January 2010) 4.2.3.

290. K Edin and M Kefalas, *Promises I Can Keep: Why poor women put motherhood before marriage* (University of California Press, 2005); W Bradford Wilcox (ed), *When Marriage Disappears: The new middle America*, The State of Our Unions: Marriage in America 2010 (December 2010).

291. S Callan, ‘Breakthrough New Zealand?’ (Speech delivered at the Maxim Institute, Auckland, New Zealand, 3 November 2008) <http://www.maxim.org.nz/index.cfm/Real_Issues/Latest?issueid=221>.

292. Qu and Weston, above n 211, 5.

293. R Parker and S Vassallo, *Young Adults’ Attitudes towards Marriage*, Family Relationships Quarterly, Iss no 8 (Australian Institute of Family Studies, 2009) 19.

The continuing decline in marriage rates, together with the exponential rise in ex-nuptial births, do not appear to be consistent with young people's expressed intentions and values. Are there barriers to getting married in this country based upon job insecurity, or unrealistic aspirations about the form and scale of a wedding, that make marriage a capstone of having attained a secure financial position financially rather than a foundation for adult family life? What issues of social justice and social inclusion need to be tackled in order to reduce the marriage gap?

Recommendation 12

The Australian Institute of Family Studies should be asked to examine the gap between the aspirations of young adults to marry, their preference that children should be raised in the context of a marriage, and the reality of declining marriage rates and increased ex-nuptial births.

There are also some fundamental issues about how to respond to the growing incidence of cohabitation outside marriage and 'living apart together'²⁹⁴ relationships. Do all people who live together outside of marriage want to be treated as if they were married, with the same obligations as well as entitlements? Should obligations be imposed upon them without their consent even where there are no children of the relationship? This is particularly an issue for people in later life who may have been married in the past and consciously choose not to marry their new partner. Research by the Australian Bureau of Statistics, for example, has found that while half those in cohabiting relationships who have never married intend to marry their current de facto partner at some stage, only 26% people in a de facto relationship who were separated, divorced or widowed from a previous spouse intended to marry their current partner.²⁹⁵ This may indicate a desire to have a different kind of relationship than marriage entails, with different legal consequences. Although small scale studies have been conducted,²⁹⁶ and state law reform bodies have canvassed opinion by inviting written submissions, there has never been a proper, large-scale study conducted on what the people most affected by these issues think, and which examines their attitudes in depth. With rapidly changing social values, it would be inappropriate in any event, to rely on older studies.

One possibility that has not been properly canvassed in Australia is whether it would be better to require people to register their de facto relationship before being eligible for some benefits or having obligations imposed upon them. At present, there is an enormous amount of uncertainty associated with the current definition of what a de facto relationship is,²⁹⁷ and this can be exacerbated by the parties' conflicting interests when the relationship is over.

294. I Levin, 'Living Apart Together: A new family form' (2004) 52 *Current Sociology* 223-240; A Reimondos, A Evans and E Gray, 'Living-apart-together (LAT) Relationships in Australia' (2011) 87 *Family Matters* 43-55.

295. B Pink, *Australian Social Trends March 2009*, Cat no 4101.0 (Australian Bureau of Statistics, March 2009) 11.

296. N Lewers, H Rhoades and S Swain, 'Judicial and Couple Approaches to Contributions and Property: The dominance and difficulties of a reciprocity model' (2007) 21 *Australian Journal of Family Law* 123-142.

297. See eg *Family Law Act 1975* (Cth) s.4AA, *Acts Interpretation Act 1901* (Cth) s.22C.

Recommendation 13

The Australian Institute of Family Studies should be asked to conduct a large scale study of the attitudes of people in cohabiting relationships at different life stages, to laws that treat them as if they were married, and to discern their views on the circumstances when it is, and is not, appropriate that a de facto relationship should have the same legal effects and consequences as marriage.

There are other questions for governments to consider as well. Does any tier of government provide perverse incentives to choose family forms that may not be optimal as a context for raising children?

For example, one issue which may need examination is the ‘baby bonus’. Paid parental leave is related to this. The so-called baby bonus was announced in 2004. It is a universal payment, initially of \$3000, but now standing at \$5,294, and paid in 13 fortnightly instalments. Now paid parental leave is an alternative to claiming this benefit. There is no minimum age for receipt of the baby bonus, nor any requirement to be in a relationship with the other parent.

Children born to unmarried teenage mothers typically have poor life-chances. Has the baby bonus operated as a perverse incentive to teenage childbirth? As noted in chapter 2, the teenage birth rate had been declining over the last 20 years, but is on the rise again. This has coincided with the introduction of the baby bonus. Table 8 provides the number of babies born to mothers under 18 per 1000 girls in that age group.

Table 8: Age-specific fertility rates for selected years between 1990 to 2009, per 1000 population

	1990	1995	2000	2003	2004	2005	2006	2007	2008	2009
15 and under	3.7	3.6	2.9	2.8	2.7	2.7	2.5	3.1	3.1	3.4
16	8.5	9.4	7.6	7.2	6.6	6.7	6.2	6.3	7.3	7.1
17	20.5	18.8	16.1	14.2	14.5	14.4	13.4	14.1	14.5	15.1

Source: Australian Bureau of Statistics, *Births Australia*

It has been reported in Western Australia that in the last five years there has been a 17% increase in births to girls under 16.²⁹⁸

298. Cann, above n 103.

It is of course entirely possible that the increase in births to unmarried teenagers has no connection with the introduction of financial incentives. Yet the available evidence suggests it did have an influence on fertility intentions in the childbearing population more widely,²⁹⁹ so the question needs to be asked. It is also important to explore the policy issues explored concerning appropriate and inappropriate ways to support teenage mothers. There has to be a major focus on prevention, and the experience of other nations may offer alternative models.³⁰⁰

Only a comprehensive review of state and federal government policy settings, can begin to answer such questions. The fundamental questions that ought to be asked are:

1. Does government policy, as far as possible, encourage the maintenance of stable, safe and committed relationships between parents?
2. Does government policy, as far as possible, encourage the procreation of children in a context that maximises their chances of experiencing a stable, safe and nurturing home environment?

It seems unlikely that these questions could be answered in the affirmative if government policies are entirely neutral about family form.

Recommendation 14

State, Territory and Federal Governments should review the direction of family policy in their jurisdictions, with a view to answering the following questions:

1. Does government policy, as far as possible, encourage the maintenance of safe, stable and committed relationships between parents?
2. Does government policy, as far as possible, encourage the procreation of children in a context that maximises their chances of experiencing a safe, stable and nurturing home environment?

299. R Drago, K Sawyer, K Shreffler, D Warren and M Wooden, 'Did Australia's Baby Bonus Increase Fertility Intentions and Births?' (2011) 30 *Population Research and Policy Review* 381-397; L Risse, '...And One for the Country' The effect of the baby bonus on Australian women's childbearing intentions' (2010) 27 *Journal of Population Research* 213-240. For research on attitudes of young people to fertility taking account of the baby bonus, see M Anderson, *Investigating the Australian Lump-sum Baby Bonus and the Reach of its Pronatalist Messages with Young Women in Far North Queensland* (PhD thesis, James Cook University, 2011) <<http://eprints.jcu.edu.au/15991/>>.

300. See eg J van Loon, *Deconstructing the Dutch Utopia: Sex education and teenage pregnancy in the Netherlands* (Family Education Trust, 2003).

Conclusion

This report has explored the social environment in which children and young people are growing up in Australia. On many measures, the deterioration in the wellbeing of Australia's children has been both rapid and alarming. All sorts of arguments could be raised about individual statistics, and all kinds of interpretations might be offered.

This report has sought to examine the trends in the aggregate, to look at changes over time, and to identify reasons for deterioration. It has explored trends in other countries as well as Australia. It has identified Australia's increasingly fragile families as a major reason for the rise in child abuse and neglect, and the deterioration in the emotional wellbeing of so many children and young people. No doubt there are other causes – indeed it would be simplistic to suggest otherwise. It has suggested ways that governments and the community could respond to repair the social environment of the nation.

The question is now whether governments and concerned members of the community will have the vision and commitment to do so. The task of repairing the social environment begins with us, and will continue with us. Governments can assist in certain ways, and need to do so; but local communities must take responsibility, and as individuals, as families and as voters we need to consider what kinds of family life we should aim to foster and support.

The deterioration in the social environment has been rapid. The recovery will be much harder; but it is important to make a start, for kids' sake.



