

Submission No: ..... 742 .....

Date Received: ..... 8-8-03 .....

Secretary: .....

Committee Secretary  
Standing Committee on Family and Community Affairs  
Child Custody Arrangements Inquiry  
Department of the House of Representatives  
Parliament House  
Canberra ACT 2600  
Australia

## **Response to the Inquiry into Child Custody Arrangements in the Event of Family Separation**

**The socio-economic considerations and problems of  
implementing proposals for varying the Family Law act  
to start with presumptions of children spending equal  
time with both parents**

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**August 2003**

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## Summary

The following submission deals with the first term of reference of the inquiry. We all strongly oppose the legal mandating of shared care as not being in the best interests of children and outline specifically why a legislated presumption of equally shared care time would create considerable financial hardship and policy problems. The submission focuses on statistical and economic data to highlight issues around post separation custody arrangements and should be read in conjunction with other submissions that cover the emotional, social and practical problems of child custody, such as those of the Single Parents Union and the Council for Single Mother and her Child (CSMC).

As shown by the data, there is a continuing gendered division of labour within families and in the workforce. While we generally support changes to parental role sharing and the breakdown of traditional gender assumptions, it is necessary to acknowledge that in most cases women continue to be the primary care givers for children. This situation makes it particularly inappropriate to mandate time equality post separation. Were the presumption to come into effect, families, and therefore children, would suffer considerable financial disadvantages, in addition to problems outlined elsewhere.

Work and family patterns demonstrate the gendered division of family responsibilities. There is a significant difference in the work patterns of men and women with children: men are often in full-time jobs involving long hours of work, while women adjust their paid work times to cope with the time responsibilities of being the primary care giver to children. Although we encourage the active participation of both parents in the care of children, the data below suggest many practical difficulties in meeting the best interests of the child were a presumption of 50/50 care to be implemented.

While we may find it concerning, we recognise that gender divisions in the work and family responsibilities of men and women remain both socially defined and family sanctioned. Problems would arise in the splitting of social security payments which may require additional government payments. Care responsibilities would seriously impact on the employment situation of men, and may result in less secure, lower paid jobs or unemployment. The employment prospects will be limited for many women who have spent long periods of time out of the workforce or education systems to be the primary carer for children. These changes would severely diminish the total income of the former family unit, and affect the long-term financial security of the children. The lack of family based flexibility in many workplaces would further exacerbate these difficulties. Employers appear reluctant to provide or expand on family friendly initiatives, such as flexible work hours, despite this being the most commonly used arrangement to care for children when both parents are employed.

The presumption of equal time with each parent post-separation would have serious consequences on the child's financial stability and security. The cost and disruption of establishing two fully equipped separate houses for children must also be considered, as well as the distress that may accompany constant change in residence. It is not in the best interests of the children to mandate child custody arrangements that may encourage a parent to dispute the pre-split family division of responsibilities and arrangements and further add to the difficulties of family break up. This would seriously threaten the stability and consistency that children require during and after parental separation.

The current system can take into account role reversals where men are the primary care givers, and can allow for substantial sharing of care between partners. While there are both men and women who have legitimate complaints against decisions made, the proposed changes will not fix these problems. There are flaws in the current system, but the presumption of equally shared care time will exacerbate these and will not encourage good care arrangements that informally adapt to changing circumstances. Issues of violence, inadequate care and other problems, both between partners and in relation to the children, may be hard to define and discern and have been dealt with in other submissions as making the presumption of equally shared care inappropriate. The focus of this submission is for the majority of families that separate on other grounds. In these cases the legal system needs to nurture continued good will between parents as crucial to developing flexible, child-appropriate arrangements.

## Background

The Terms of Reference covered is as follows:

- (a) given that the best interests of the child are the paramount consideration:
  - (i) what other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted; and

**The National Network of Women's Legal Centres has provided the following briefing notes on the operations of the current Family Law act that has been used:**

There is no principle of family law that advantages either parent in family law proceedings. Although mothers more often have legal "residence" (current term for custody) of children, most of these orders are made by consent. Further, the Family Law Act provides that each parent has parental responsibility (current term for "guardianship") for their child and that this is not affected by parental separation. Where parents cannot agree on arrangements for the children and the Family Court has to decide it is bound by law to look at the **best interests of the child as the paramount consideration.**

The Family Law Act also sets out four clear principles about parenting of children, namely:

- children have a right to know and be cared for by both their parents, regardless of whether their parents are married, separated, have never married or have never lived together; and
- children have a right of contact, on a regular basis, with both their parents, and with other people significant to their care, welfare and development; and
- parents share duties and responsibilities concerning the care, welfare and development of their children; and
- parents should agree about the future parenting of their children.

The Court must also consider a number of other factors such as

- any expressed wishes of the children
- the nature of the relationship of the child with each parent
- the likely effect of any changes in the child's circumstances
- the practical difficulty and expense of a child having contact with a parent
- the capacity of each parent to provide for the needs of the child
- the child's maturity, sex and background, including issues of race, culture and religion
- the need to protect the child from physical or psychological harm
- the attitude to the child and to the responsibilities of parenthood
- any family violence which has occurred.

**NOTE:** Italicised material in the body of the submission is direct quotes from ABS material

## Submission in detail

We note that the population details set out in the appendices show that there are many families that will be affected by changes to child custody arrangements, including those who live in re-partnered and blended families as well as those living with one of two parents. The differences between sole parent families headed by a woman and those headed by a man show that males tend to have older children. As the proposed changes potentially affect many children the difficulties that may occur in these families must be considered. We endorse the many other submissions that seek to outline the difficulties that these proposed changes will cause for families managing joint care, including the Sole Parent Union and the Council for Single Mother and her Child, and suggest that this submission be read in conjunction with these. We will be focusing on statistical and economic data to explore questions around possible post separation custody arrangements.

The question of child-custody has frequently been presented in public debates as a contest based on gender. The claims made by some admittedly angry men have been based on the misapprehension that the Family Court has inbuilt biases towards mothers in allocating residence and sometimes in the settlement of property. However, there is no evidence of systematic bias, or that the formulation of the laws at present involves any explicit or implicit bias towards either parent. The danger is that the angry perceptions of some grieving men may affect lawmakers in ways that prove the aphorism 'hard cases make bad laws.'

Break-up of marriages/relationships often leaves considerable pain on both sides. The need to support two separate households financially and divide the time with children equitably often sets up arrangements which may cause a serious sense of loss. Much of this is inevitable, as the division of resources and time will rarely result in satisfactory outcomes for both parties. In some limited but numerically audible cases, a sense of grievance can lead to very bitter feelings, often a result of the circumstances of the separation as well the decisions of the court. Some angry parents may want to make the ex-partner suffer, regardless of its effect on the children. We recognise there are cases when anger might be justified, but we do not see how this proposal will remedy these situations.

The introduction of gender may add some potentially misleading fuel to the fire. Some parents fail to acknowledge that their relationship was based on gender divides, reflecting the social and economic pressures and trends that leave women as the primary carer. This then sets up a situation in which the mothers' lifestyles and time commitments are more geared to child rearing than the fathers'. Therefore it is often best for many couples on separating to make the logical decision to retain the prior division of responsibilities for children, and give the major residency time to the female parent.

This submission looks at how the data on workforce participation, incomes and time use supports maintaining the present system, where decisions are based on a clean slate of what is in the best interests of the child. The parents and the Court, if it becomes formally involved, should be able to negotiate agreements which best suit a plethora of various family situations. In many cases this will involve recognising how factors such as the continuing gendered division of labour, paid and unpaid, finances, geography, transport, and the preferences, ages and needs of children, should be given due consideration. Both parents should be offered optimum, not equal, time and be able to maintain equitable close and productive relationships with children.

Therefore the groups endorsing this submission propose that the present system of allocating residency be maintained. While we would welcome moves from the government to encourage fathers to take a more active role in their children's lives post separation, we do not believe a legislated presumption of equally shared care time would achieve this. In fact, the acrimony that will arise from the possibility of more parents contesting care will put relationships between families at risk.

The focus of our submission is the best interests of children. We recognise that this may not be best served by the mother being the primary carer in all cases, but maintain that the current allocation of household and care responsibilities as overwhelmingly the role of women make this likely in a majority of cases.

### **Time work problems**

It is overwhelmingly mothers whose careers/workforce participation is interrupted as a result of childrearing responsibilities. These commitments obviously change with age and stage of life: the needs of very young children require almost constant adult care, while older, adolescent children require different levels of time commitment. However, even with older children access to parental interest and time are important, as is the capacity of parents to offer adequate supervision and guidance. The effects of such demand show very clearly in the paid and unpaid work pattern differences between men and women. Far more mothers are either not in the workforce or are in it for shorter hours than fathers. Even where women do full time paid work they work fewer hours on average than men do. Recent research shows that women tend to trade leisure time and sleep against paid work hours to maintain caring time for children.

*ABS - June 2002 Labour Force Survey showed that more than half (57%) of all couple families with children aged less than 15 years were those where both parents were employed. It was more common for families to have a father employed full-time and a mother employed part-time than for both parents to be employed full-time (34% compared with 19%). Men are therefore more likely to be the primary earners even when their partners work.*

*The working hours of parents within families are also influenced by the age of children. Children aged less than 5 years generally require more parental care and supervision than children who are school-aged. Reflecting this, in couple families where the youngest child was aged less than 5 years, 71% of couples worked under 60 hours per week, compared with 53% of couples where the youngest child was aged 5-14 years*

See appendix B for more tables

### **Earnings and the effect of working patterns**

The continued substantial differences in male and female earnings, given the legal framework for equal pay, results in women on average earning two-thirds of male wages. The large proportion of women who work part time constitutes much of this difference, but it is also a reflection of the continuing lower pay rates for jobs that remain implicitly female, such as nursing and childcare. However, even where there are no differences, for example in graduate salaries in similar professions, the gap reappears when there are no children and similar years of service. This suggests that women may often opt for salaried professional positions, and sometimes for less potentially time loaded jobs, in expectation of time out and part time work at later stages. Men, on the other hand, show their workforce commitments by taking on career advancing positions

even in feminised occupations such as nursing and teaching, and become disproportionately represented in senior positions.

The table below shows clearly that as men and women move into childrearing years their pay rates move further apart. However, even in the youngest group men already earn more. The differences increase steadily, with full time workers aged 35-44 it is \$210 pw. While part time males earn more than women at all ages, the gap in this age group is only \$66, as this bracket most likely contains men with family care responsibilities.

### Data on Earnings

**Figure 1: Average Weekly Earnings for Full-time and Part-time Employees by Age, Australia, August 2001**

Age Group	Full-time Employees		Part-time Employees			Total			
	Males \$	Female \$	Person \$	Males \$	Female \$	Person \$	Males \$	Female \$	Person \$
15-19	395	376	388	124	121	122	233	177	205
20-24	633	584	612	292	267	278	542	460	502
25-34	879	766	835	475	361	394	832	627	739
35-44	1008	798	939	440	377	386	964	594	792
45-54	1021	767	929	500	376	397	979	596	795
55-59	1101	724	989	475	340	376	1013	526	804
60-64	846	713	815	442	278	346	752	463	648
65+	783	741	777	562	322	455	679	401	591

Source: ABS Employee Earnings and Benefits Catalogue 6310.0 August 2001.

It is, therefore, obvious that both women and employers hold an expectation that they will take on family responsibilities, and this is a major factor in determining the types of jobs women take and the pay rates they achieve. Once children appear, time out, part time work and reluctance to take on senior jobs with high time demands means male and female salaries move even further apart. These aspects of gender segregation impact on the availability of men in most families for family/domestic care and duties.

**Figure 2: Couple Families (A): Labour Force Status of Parents - 2002**

Mother's labour force status	Father's labour force status			Not in the labour force
	Employed full-time %	Employed part-time %	Unemployed %	
Employed full-time	19.2	1.7	0.4	1.2
Employed part-time	33.9	2.2	0.6	1.1
Unemployed	1.8	*0.2	0.5	*0.2



**Figure 3: One-Parent Families (a): Labour Force Status Of Parent - 2002**

	<b>Father</b>	<b>Mother</b>
	<b>%</b>	<b>%</b>
Employed full-time	48.6	16.8
Employed part-time	13.3	27.2
Unemployed	8.3	8.9
Not in the labour force	29.8	47.0
<b>Total</b>	<b>100.0</b>	<b>100.0</b>

With children aged under 15 years. Source: ABS June 2002 Labour Force Survey.

*Employed lone parents tend to work fewer hours than employed parents who have partners to share domestic responsibilities. In 2002, around 38% of employed lone parents worked less than 20 hours per week, and a similar proportion (42%) worked 20-39 hours per week. However, lone parents were less likely to be in the labour force than parents in couple families. Close to a third of lone fathers (30%) and almost half of lone mothers (47%) were not in the labour force. (ABS)*

Considering the employment situation of most men, it is necessary to question what would happen to their jobs if they were suddenly responsible for 50% of the unpaid work relating to the care of children. Given the complexities of arrangements of shared care, one could also predict that the work involved in organising shared care arrangements would mean that the time demands would be higher than current demands. Men would find themselves in difficulties at work, were they to need to take off time for sick children, dentist appointments and school holiday care, and may find it very difficult to continue working full time.

The sharing of care would be further complicated by the types of jobs many men hold. These jobs tend to demand overtime, paid and unpaid, and/or early starts and late finishes. These jobs are often not available part time, or even under forty hours per week. The mean for male working hours is much higher than for female hours, even if both work full time. Therefore men may find they have to change jobs and even careers to find jobs that allow for the possibility of combining family and paid work. We know that there are relatively few genuinely family friendly workplaces and we also know that even where they operate, the male employees rarely use the options. Were men to demand access to such 'concessions', they may well find they are not seen as desirable employees, and may be discriminated against, as some women have been, in relation to senior high paid jobs. While this may be technically illegal, it continues to occur.

#### **Access and use of special workplace arrangements and services such as childcare**

The above aspects of workplace difficulties for primary carers is illustrated by data that demonstrates the need for those with substantial child care responsibilities to seek out or access different workplaces or different arrangements within current ones. Employers have a mixed record in relation to family friendly workplaces. At present, items like paid maternity and family leave are more likely to be made available to public servants, higher paid and full time workers and not casuals or part timers in lower paid jobs. Employers seem reluctant to extend these entitlements universally because of limits to resources.

Similarly, other useful flexible working arrangements such as varying start times and flexitimes are often seen as items to trade off against higher pay and are limited in their availability, making

expansion of such programs not easily achievable. The following data from ABS shows the different usage by male and female parents of currently available arrangements and services.

### **Flexible working arrangements ABS 1999**

*In 1999, just over half (53%) of all families with at least one parent employed and with children aged less than 12 years reported using some form of flexible working arrangement to care for children. In general, flexible working hours were the most commonly used arrangement (33% of all families with an employed parent used this arrangement), followed by permanent part-time work (23%).*

*Couple families with only one employed parent were predominantly made up of a father who was employed and a mother who was not employed. Compared with other families, their use of working arrangements to care for children was relatively low (19%). In contrast, couple families where both parents were employed were more likely to use working arrangements to care for children, although there were notable differences in their use of mothers' and fathers' working arrangements. Over two-thirds (70%) of these families used mothers' working arrangements to care for children, and a third (33%) used fathers' working arrangements. This suggests that even when both parents are working, women still tend to be the primary givers of care, and are more likely than their partners to organise their work around child care responsibilities.*

*One-parent families were also likely to use working arrangements to care for children (60%). The difference between mothers and fathers in their use of working arrangements was less marked for lone parents than for parents in couple families. Around 62% of employed lone mothers used working arrangements to care for children, compared with 44% of employed lone fathers. (see table in appendix B)*

### **Use of child care and other services**

Splitting the care role also has implications for services such as childcare, which is often hard to find and expensive, particularly for younger children or if flexibility is required, eg. differing times within a week. Current shortages already reflect funding limits for out of school places and places for younger children, and are dependant on increased Federal funding. Access and costs of care are often the basis for decisions on part time work hours and types of jobs that women take being available after school hours or in holiday times. Similarly, casual work and evening shifts may be used to respond to lack of access to appropriate childcare services in usual working hours.

*In 1999, one-parent families where the parent was employed were the most likely to make use of formal care (regulated child care away from the child's home) and/or informal care arrangements (non-regulated child care). Around 40% of these families used formal care and 67% used informal care. Couple families where both parents were employed were the next highest users of child care - 34% of these families used formal care while 50% used informal care. Couple families where neither parent was employed were the least likely to use child care, but some of these families still used formal (18%) and informal care (20%).*

See Appendix B for more tables

### **Unpaid work at home**

Similarly, there are major differences in unpaid work rates and tasks within households. While total numbers of hours worked may not be dissimilar, men do far less unpaid work than women. While they may share some aspects of the cooking and childcare, few men do substantial other housework and their working hours often preclude them from morning and afternoon tasks, even when children are at school. These leaves household tasks often gender defined and inequitably shared in the majority of households, somewhat reflecting paid work status as shown below.

In (ABS survey) 1997, 91% of Australians performed some form of unpaid household work each day. Of those who did, it consumed almost a third of women's waking hours and a fifth of men's. Household work is a major contributor to household and family functioning, providing essential services to people inside a household which would otherwise have to be paid for. Tasks reflect every day living requirements, such as cooking and cleaning, shopping for food and caring for children. However, the amount of time people spent on this work often varied depending on a number of factors, including age, living arrangements and labour force status. More women than men performed household work in 1997 (96% compared with 85%), also spending more time on these activities than men (287 minutes per day compared with 170 minutes per day). Consequently, household work consumed almost one third of women's waking hours and one fifth of men's.

**Figure 4: Participation in Unpaid Household Work, 1997**

Type of household work	Males	Females	Persons
<b>Participation rates</b>	<b>%</b>	<b>%</b>	<b>%</b>
Domestic	76	93	84
Indoor activities	64	90	77
Outdoor activities	39	40	40
Child care	19	31	25
Purchasing	45	58	52
<b>Total</b>	<b>85</b>	<b>96</b>	<b>91</b>
<b>Average time spent by participants</b>	<b>mins/day</b>	<b>mins/day</b>	<b>mins/day</b>
Domestic	124	191	161
Indoor activities	66	155	119
Outdoor activities	104	61	82
Child care	86	147	124
Purchasing	77	92	86
<b>Total</b>	<b>170</b>	<b>287</b>	<b>233</b>

Source: ABS 1997 Time Use Survey.

*In 1997, women spent an average of 191 minutes per day on domestic activities, compared with men who spent an average of 124 minutes. To a large extent, this reflects traditional roles of men and women in relation to housework. In keeping with this, women who participated in domestic activities in 1997 spent more time than men on tasks which are usually performed indoors, such as cooking or cleaning (155 minutes per day compared with 66 minutes per day). However, women spent less time than men on tasks which are usually performed outdoors, such as grounds and animal care or home maintenance (61 minutes per day compared with 104 minutes).*

*Not all Australian households contain dependent children. Reflecting this, 25% of people spent time caring for children on an unpaid basis on a given day. Around 31% of women and 19% of men participated in child care, spending an average of 147 and 86 minutes per day on this activity, respectively. Women performed 74% of all child care.*

*People often spend time caring for children while doing other things. As a result, much of the time people devote to child care is not measured as a primary activity. When all child care activities were considered (regardless of whether they were primary or simultaneous activities), the time people spent on child care was around seven hours per day.*

*Purchasing activities occupied an average of 86 minutes of people's time on a given day in 1997. Women spent around 92 minutes and men spent 77 minutes per day on these activities. Levels of participation of women and men were more similar for purchasing activities (58% and 45% respectively) than for other household work.*

*The type of household work that people perform and the time they commit to these activities varies with age. In 1997, the proportion of people spending time on domestic activities ranged from 68% of people aged 15-24 years to 94% of people aged 65 years and over. **Women performed two thirds of all domestic activities.***

***Women aged between 35 and 44 years performed the greatest proportion of domestic activities of all people (15%), while men in this age group undertook 7% of these activities. In 1997, people aged between 25 and 44 years performed 82% of all child care. Of this, women performed three quarters. This disparity reflects the number of couples with children where the male partner spent a large amount of time at work while his female partner took on a greater share of child care. The proportion of child care being performed decreased from the age of 45 years, reflecting the fact that children require less care from their parents as they grow older.***

The above data shows the current work allocation in homes is strongly gender determined. While some men do take on higher shares of care, it is clear that most is still done by women. Therefore changing this dramatically may create problems for the children concerned. HOW?

### **Social security and tax**

While WEL may not be happy with many aspects of the continued gendered division of labour which is both socially defined and family sanctioned, we reluctantly recognise it continues and is not shifting in any major way. The proportion of paid hours worked by women is fairly static, although more women are in paid work and more work part time than before. The gender gap in wages has not shifted significantly for nearly a decade and job segregation continues. This situation is also reinforced by the current Federal government's payment systems and rhetoric of choice, which has directed resources into single income families.

The current tax and social security policies encourage what the government calls choice by supporting mothers who choose to work part time or who are not at all in paid work, as long as they are in a partnered situation. The levels of payments to lower income families are enough to create poverty traps for second income earners. Once the primary carer is dependent on a payment from government, the government pressures them into paid work but this does not start formally until the child turns thirteen. Government policies assume that children need to have a primary carer available with limited other demands on her time for well over their first decade and offer support to make this obvious. Therefore it is these 'traditional' families that would be most grievously affected by changes to current policies, which would make the situation of the female who has stayed out of paid work very difficult.

These facts indicate clearly that for most families with dependent children it is the mother that is the primary carer both in time and experiences, while the father is still the primary income earner, even where the mother is in paid work. Any shift in the family balance with current government policies with current income differences in place raises serious questions concerning practicality or whether the changes are in the best interests of the child. The assumption has been in Family Law that disturbing such arrangements in major ways would not be good for children facing the stress of break ups, most parents recognise this and agree on sharing care in ways which minimise disruption to existing relationships.

Changes in this division of labour have implications for the types of payments made to families. While these often are based on joint parental income, they are frequently targeted towards single income families. Therefore it has been the mother in most cases that adjusts her paid work to family decisions on who works and children's needs, but also responds to income tests for various parenting and child payments. A change to 50/50 care time, particularly for low income families with current substantial additional payments, would set up a huge range of problems regarding allocation of payments. Splitting them between the parents would present problems, as both parents are likely to be left with inadequate resources and will need other forms of supplementation.

This may then result in more unemployed or fractionally employed men with less secure jobs who do not earn enough to support themselves and the children they are responsible for. The women left with half the care will not find that this allows them enough freedom to substantially increase their employment hours as they will still have quite substantial care demands. They may be able to take on a few more hours in their often not so well paid jobs or may find some part time/casual work, if they have had none. But their options will be limited by the time they have spent out of the paid workforce, and therefore they are unlikely to increase their income by any substantial amount. The total income of the former family unit will therefore be considerably reduced overall, with reduced long term financial security for children. The security of such income is also in question if both parents become part of the casual workforce and vulnerable to job losses.

Demand for income support from the government would therefore also increase as both partners would probably require part parenting payments and more income tested child payments. This could not easily be dealt with through the current social security system. Do both parents become eligible for half the parenting allowance? This would not be feasible because if not they are not employed or are only minimally employed, they would need more money to live on and support the children. Even if they were partly covered by New Start they may be unable to look for work as their part time hours would already be as much as they could manage with children. A new form of special benefit would have to be offered to ensure that they were left with enough to support the children and themselves.

This does not include estimating the extra costs involved in maintaining two family homes capable of supporting children. Both would need proper space for the children and many costs would be duplicated or children would miss out on useful resources. This could be overcome by leaving the children in place and moving the carer/parents in and out, say week and week about. However, few adults could cope with that level of displacement and change, so it is hard to see that children could. The economics/financial costs of such arrangements would in most cases be prohibitive for all but a small number of well off parents.

At present taxation allowances and maintenance payments make certain assumptions about costs of children and eligibility for support. The sharing of care would greatly complicate any child support estimated, as costs would be assumed to be shared equally as time is already a factor in eligibility. How one would estimate these equitably in a shared care situation would be increasingly complex. Issues of child support are already entangled with access and time so, in already difficult situations, the suspicion that some parents may be using custody as a way of reducing child support will only increase tensions.

## **Conclusions**

The above data shows that changing the current system in the way proposed would create far more problems than it may solve. We agree that, where it is suitable, both parents should continue to have good and extensive relationships with their children, but do not see that the proposals will create more good will. The possibilities are that the presumption of sharing care time will create unnecessary and damaging court battles and result in increasingly stressed and dysfunctional families. It is not fair to expect children to move from one parent to the other with such frequency unless the parents and children, and more rarely the judges, think their needs are best served by such arrangements. Parents could shift and retain the stability for the children in one place, but few adults could cope with such disruption and should not impose this on children.

The statistics included in the text and the appendices show that there are serious questions concerning the financial/economic viability of such arrangements in most cases. Where people have high incomes and are relatively autonomous or self employed they may be able to rearrange their times to meet child needs. However, for most primary income earners, it will require changing paid work patterns and maybe even jobs. More would need to work part time or find employers who allow flexibility with attendant loss of income/promotion options etc. This will also cost the government in terms of additional income support. The proposed changes are not supported by these figures.

We recognise that many of the arguments for and against the changes are based on social and emotional needs and issues. Our presentation of the economic issues is designed to add material to the other arguments put, and support their cases for the serious problems such changes would make for children's emotional and social needs, for example see the submission from the Sole Parents' Union. It is important for fathers and mothers to retain good relationships with their children but also to be able to relate comfortably to each other so children do not feel torn between them.

The proportion of mothers caring for children and the statistics on agreements which do not need to go to the courts for judgement show that most parents can and do make the appropriate arrangements for their children. While voluntary arrangements can be expected to continue to allocate care sensibly and recognise children's needs, changing the presumptions is likely to result in more cases rather than fewer ending up in court. Hurt parents will use the presumption as a way of expressing their anger and pain, and sometimes to assert their power.

It is the hard/bad cases where the bitterness operates on one or both sides that find their way to backbenchers' offices and many community groups. People who have been deeply hurt are often not good at seeing what is in the best interests of their children. They may well have genuine concerns about their children and sometimes have had a tough deal, but we must question whether this minority should be able to run the entire agenda. While recognising that many are unhappy about family arrangements made in the wake of separation, there is no evidence in any local or overseas study that the proposed changes would reduce the grievances, and may in fact increase them. The stress on the parents of reduced financial resources as both partners seek to meet children's time needs, higher expenditure in duplicating resources and the emotional and social costs of managing complex arrangements will outweigh any possible gains.

The following data has been taken from ABS reports, both on the website and in hard copy. It is included to support the material above.

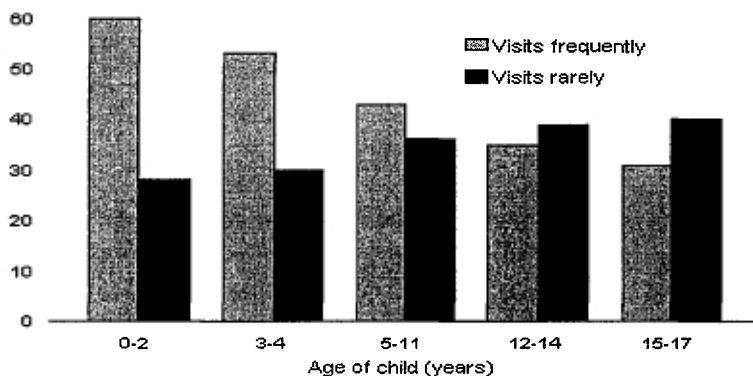
## Appendix A - the population

### 4442.0 Family Characteristics, Australia 1997

#### Main Findings

- Out of Australia's 4.6 million children aged under eighteen, 1.1 million children live with only one of their natural parents, usually as a result of relationship or marriage breakdown.
- 18 per cent of children were in one-parent families and 8 per cent were in step or blended families.
- The vast majority of children, who had a natural parent living elsewhere, were in the sole care of the parent with whom they lived, while 3 per cent of children had parents who shared care more evenly between them.
- Younger children were likely to visit the parent they did not live with more frequently than older children.
- 42 per cent of families (199,200 one-parent families and 53,700 step and blended families) received cash child support from the other parent.
- A further 16 per cent of families received support such as clothing, pocket money and assistance with school fees.
- 41 per cent of families received no child support from the other parent.

Figure 5: Frequency of visits with other natural parent



#### Families over time

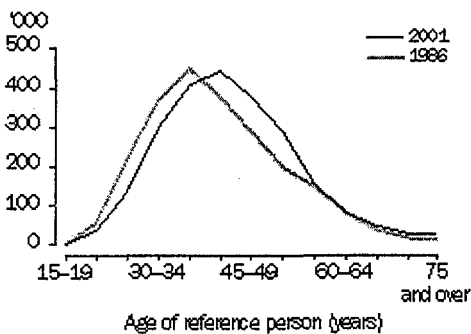
The 2001 Census showed that couple families where both parents were employed were the most common of all families with children aged less than 15 years (43%). Couple families where only one parent was employed were the next most common (28%), followed by one-parent families where the parent was not employed (11%), one-parent families where the parent was employed (10%) and couple families where neither parent was employed (8%). Since 1986, the proportion of couple families with children aged less than 15 years where only one parent is employed has declined, while the proportion of couple families where neither parent is employed has remained stable. Families with other working arrangements have increased over the same time period.



**Figure 6: Family Formation**

	Units	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	
<b>Registered marriages</b>													
24	Number of marriages	'000	113.9	114.8	113.3	111.2	109.4	106.1	106.7	110.6	114.3	113.4	103.1
25	Crude marriage rate (per 1,000 population)	rate	6.6	6.6	6.4	6.2	6.1	5.8	5.8	5.9	6.0	5.9	5.3
26	Marriages where both partners married for the first time - of all marriages	%	67.5	67.2	67.1	67.5	67.5	66.4	66.6	66.7	66.9	66.6	67.0
29	Median age at remarriage - divorced males	years	39.7	40.1	40.4	40.9	41.1	41.6	41.8	42.0	42.2	42.7	43.1
30	Median age at remarriage - divorced females	years	36.1	36.5	36.8	37.4	37.6	38.0	38.2	38.4	38.6	39.1	39.5
<b>Divorce</b>													
31	Number of divorces	'000	45.6	45.7	48.4	48.3	49.7	52.5	51.3	51.4	52.6	49.9	55.3
32	Crude divorce rate (per 1,000 population)	rate	2.6	2.6	2.7	2.7	2.8	2.9	2.8	2.7	2.8	2.6	2.8
33	Median duration between marriage and final separation	years	7.4	7.4	7.6	7.6	7.6	7.6	7.7	7.8	7.9	8.2	8.3
34	Divorces involving children aged under 18 - of all divorces	%	54.2	52.9	52.6	52.4	n.a.	53.6	54.0	53.4	53.9	52.7	51.2
35	Children aged under 18 affected by divorce	'000	46.7	45.7	48.1	47.5	n.a.	52.5	51.7	51.6	53.4	49.6	53.4

**Figure 7: Distribution of Couple Families With Children**



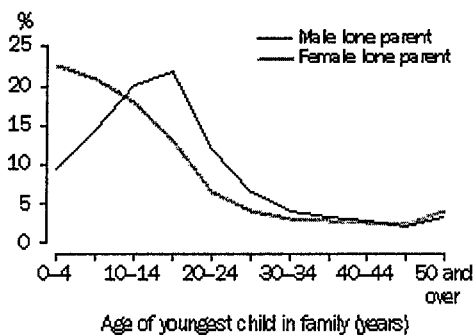
Source: ABS 1986 and 2001 Censuses of Population and Housing.

In 2001, most couple families with children (89%) contained only the natural or adopted children of both parents. A further 6% were step-families and 4% were blended families. There were also 33,600 couple families (1%, some of which are included in the families above) which had other children, such as foster children, nieces, nephews, or unrelated children living with the family.

One-parent families may also be formed through the death of a spouse. However, the proportion of one-parent families formed through widowhood has declined (in 2001, 18% of lone parents were widows, down from 27% in 1986). This is partly because life expectancy has increased for both men and women, and, over the long-term, the proportion of relationships ending through divorce rather than death has increased.<sup>3</sup>

Lone mothers comprised 83% of lone parents in both 1986 and 2001. Lone mothers tended to have younger children living with them than lone fathers. In 2001, 22% of lone mothers had at least one child aged 0-4 years living with them, compared with 9% of lone fathers. In 56% of male one-parent families the children present were all aged 15 years or over, compared with 39% of female one-parent families.

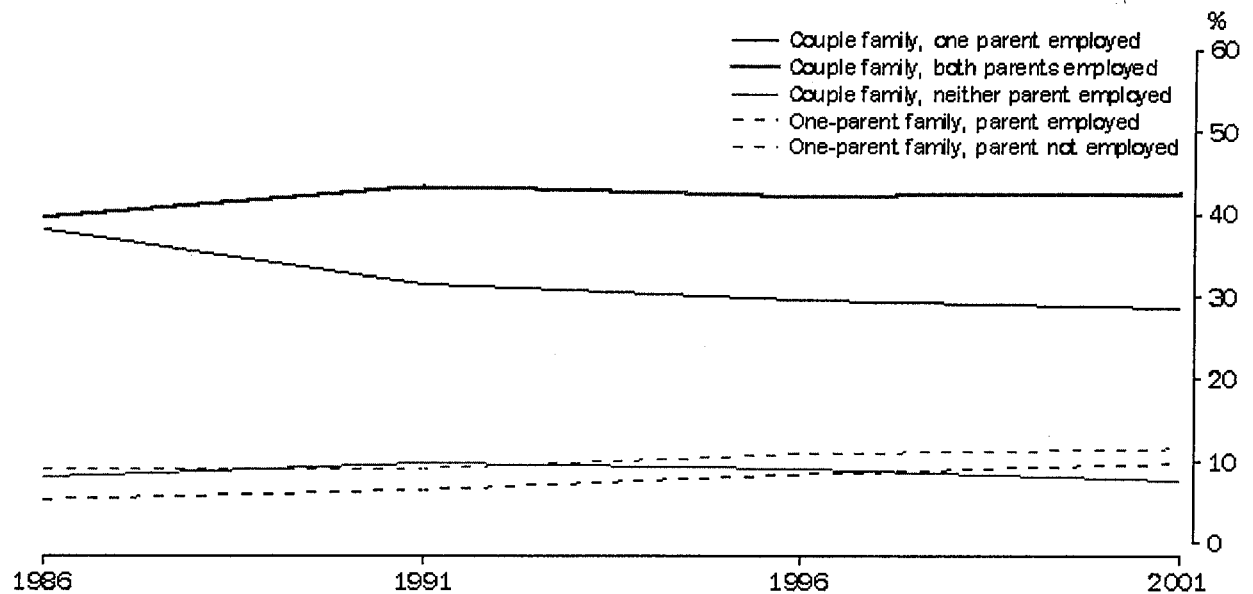
**Figure 8: One-Parent Families: Age of Youngest Child (a) – 2001**



ABS 2001 Census of Population and Housing.

## Appendix B- labour force, hours and earnings

Figure 9: Families (a) and Parents' Labour Force Status (b)



(a) With children aged less than 15 years.

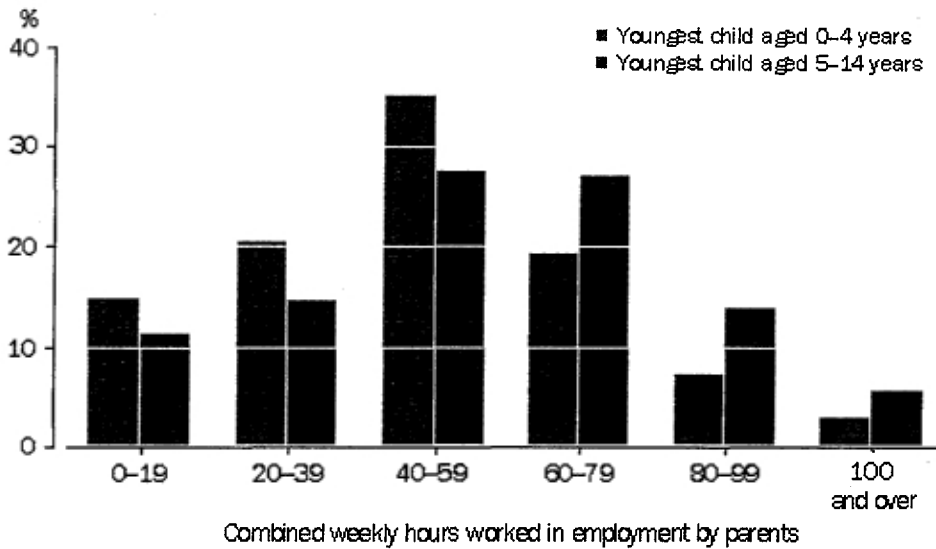
(b) Excludes families where one parent was temporarily absent on census night, and families where a parent did not state his or her labour force status.

Source: ABS 1986-2001 Censuses of Population and Housing.

The changing distribution of families is also associated with the increase in divorce. This has led to a greater proportion of lone parents, many of whom face the challenge of balancing family and work in the absence of a resident partner. The increase in the proportion of couple families where both parents work, and in the proportion of one-parent families, has led to a corresponding decline in the proportion of couple families where only one parent works.

Between 1986 and 2001, women's participation in the labour force across the years when they are most likely to have children (i.e. 25-34 years) increased from 61% to 70%. These changes in education and work participation have gone hand-in-hand with women's greater aspirations to have a challenging, rewarding career and to be financially independent.<sup>4</sup>

**Figure 10: Combined Weekly Hours Worked (a) in Employment by Parents in Couple Families (b) – 2002**



(a) Hours worked refers to hours actually worked during the reference week, where one, both or neither parent was employed.

(b) With children aged less than 15 years. Source: ABS June 2002 Labour Force Survey.

### Longer hours for full-time workers

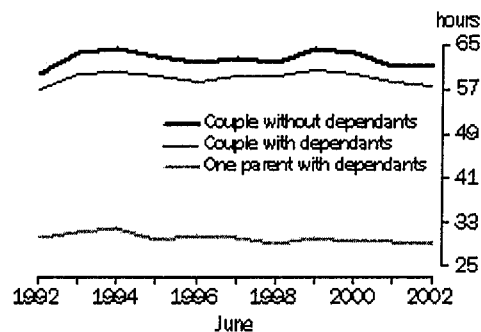
Between 1982 and 1994, average hours worked by full-time workers increased from 42 to 45 hours per week. This trend levelled off during the late 1990s, and since 2000, average hours worked by full-time workers have dropped back to around 44 hours per week (45 hours for men and 41 hours for women). In general, the distribution of very long working hours across occupation groups was fairly similar for both male and female full-time workers. However, in all occupation groups, women working full-time were less likely than their male counterparts to work 50 hours or more per week. This is consistent with the fact that women, even those with full-time jobs, tend to spend more time than men on unpaid household work and child care.

### Family working hours

Increased participation of women in paid employment during the 1980s and 1990s contributed to an increase in the number of hours worked within many families. The proportion of couple families with both partners employed increased from 40% in 1985 to 52% in 2002. However, at the broad level, the effect of these trends on average family working hours has been fairly limited. This is because the increases in women's employment, much of which is part-time, has been offset to some extent by declines in male full-time employment.

For couple families with dependents, average working hours increased by about half an hour overall, to 58 hours per week in 2002. For one-parent families with dependents, there was an overall decrease of one hour in average working hours during the period, down to 29 hours per week in 2002.

Figure 11: Average Hours Worked per Week by Families (a)



a) Combined hours worked per week by all employed family members, including dependent and non-dependent children.

Source: ABS Labour Force Survey.

Similarly, there was little or no sustained increase between 1992 and 2002 in the proportion of families working very long hours. Among couple families with dependents, the proportion working 80 hours or more per week was the same in 2002 as in 1992 (17%), although it reached 21% in 1994 and 1999.

#### Flexible working arrangements ABS 1999

Figure 12: Families With at Least One Parent Employed (a): Working Arrangements Used to Care for Children - 1999

	Couple families				
	One parent employed	Both parents employed(b)		One-parent families	Total(c)
	%	Fathers' use %	Mothers' use %	%	%
Used working arrangements(d)	18.6	33.1	69.8	60.2	52.9
Flexible working hours	10.9	22.7	37.7	36.9	32.5
Permanent part-time work	2.5	2.1	34.3	31.8	23.0
Work at home	4.1	9.6	16.9	10.1	13.5

(a) With children aged under 12 years.

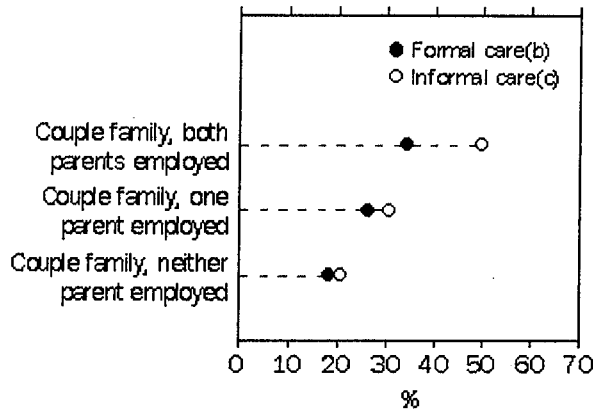
(b) Data for couple families where both parents are employed give figures for fathers' use and then mothers' use of working arrangements for the same families.

(c) Data are for either parent.

(d) Families could report using more than one working arrangement.

Source: ABS 1999 Child Care Survey.

**Figure 13: Couple Families (a): Use of Childcare – 1999**



(a) With children aged under 12 years.

(b) Formal care is regulated child care away from the child's home, including preschool, long day care, before and after school care, occasional care and family day care.

(c) Informal care is non-regulated child care, including care given by family members (such as the child's siblings, grandparents or other relatives), friends or neighbours, and babysitters or nannies. Source: ABS 1999 Child Care Survey.

**Figure 14: One-Parent Families (a): Use of Childcare – 1999**



With children aged under 12 years. (b) Formal care is regulated child care away from the child's home, including preschool, long day care, before and after school care, occasional care and family day care. (c) Informal care is non-regulated child care, including care given by family members (such as the child's siblings, grandparents or other relatives), friends or neighbours, babysitters or nannies. Source: ABS 1999 Child Care Survey.

## Maternity/paternity leave

Under Australia's current system, male and female permanent employees are entitled to 52 weeks of unpaid maternity/paternity leave after 12 months with the same employer.<sup>5</sup> Paid maternity/paternity leave is additionally available to some employees. In 2000, 44% of male employees and 45% of female employees had access to this type of leave in their main job. Full-time employees were more likely to have access than part-time employees (50% of men and 64% of women working full-time had entitlements, compared with 7% of men and 25% of women working part-time). Public sector employees were around twice as likely to have access as private sector employees (73% of men and 71% of women in the public sector, compared with 37% of men and 36% of women in the private sector).

Entitlement to paid maternity/paternity leave is also associated with the length of time employees have spent in their current job. In 2000, employees who had been in their current job for 5 years or more were more likely to have entitlement to paid maternity/paternity leave (53% of male employees and 58% of female employees) than employees who had been in their current job for less than 2 years (32% of male employees and 33% of female employees). In 1998, around a fifth (19%) of employees who had children aged less than 6 years indicated that they had taken leave of 6 weeks or more (either paid or unpaid) when their youngest child was born.<sup>3</sup>

## Other family care

Balancing family and work is not only a challenge for parents of young children. Labour force participation can also be affected by the need to care for family members who are elderly, sick, or have a disability. In 1998, carers had lower labour force participation rates than non-carers. Around half (51%) of primary carers were in the labour force (i.e. either employed or unemployed), compared with over three-quarters (77%) of non-carers.

**Figure 15: Primary Carers (a) Aged 15-64 Years: Labour Force Characteristics - 1998**

	Primary carers %
Employed	45.0
Full-time	21.5
Often needs time off work because of caring role(b)	5.3
Part-time	23.5
Often needs time off work because of caring role(b)	5.5
Unemployed	6.0
Not in the labour force	49.0
<b>Total</b>	<b>100.0</b>
<b>Total</b>	<b>351.3</b>

(a) A carer is a person who provides help or supervision with everyday activities to any person with a disability or long-term health condition, or to any person aged 60 years or over. The help or supervision must be ongoing or likely to be ongoing, for at least six months.

(b) At least once a week or more on average.

Source: Caring in the Community, Australia, 1998 (ABS cat. no. 4436.0).

**Figure 16: Families and Paid Work**

Units 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002

Lone-father families with children aged under 15 - of all families with children aged under 15	%	1.5	1.7	1.8	1.9	2.0	2.3	2.0	1.9	2.3	2.3	2.7
Lone-mother families with children aged under 15 - of all families with children aged under 15	%	14.9	15.3	15.4	16.6	16.3	17.7	19.5	19.3	18.6	19.3	20.3
Children aged under 15 living in one-parent families - of all children aged under 15	%	14.4	14.8	15.3	16.4	16.3	18.0	19.5	19.0	18.2	19.6	20.5
One-parent families with children aged under 15, parent employed - of all one-parent families with children aged under 15	%	40.6	41.4	41.8	43.2	42.7	42.9	42.1	44.0	47.3	46.4	46.2

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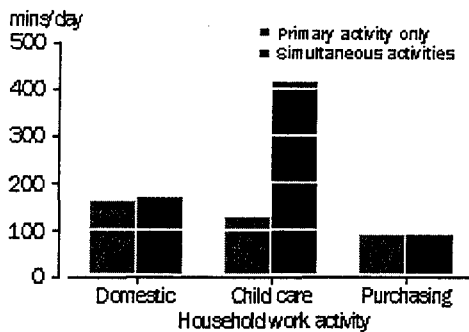
**Figure 17: Distribution of Earnings for Full-time and Part-time Workers, Australia, August 2001, (% in each earnings bracket)**

Full time workers '000	Part time workers			Total '000					
	M	F	P	M	F	P	M	F	P
Weekly earnings in all jobs (\$)									
Under 100	0.3	0.2	0.2	24.1	15.1	17.5	3.5	6.7	5.0
100 and under 200	0.5	0.6	0.5	21.2	17.1	18.2	3.4	7.8	5.4
200 and under 300	1.9	2.3	2.0	14.0	16.8	16.1	3.5	8.7	5.9
300 and under 400	2.8	4.3	3.3	11.3	17.4	15.7	4.0	10.0	6.8
400 and under 500	7.7	11.9	9.2	9.5	12.5	11.7	8.0	12.2	9.9
500 and under 600	12.5	17.3	14.2	4.6	7.0	6.4	11.4	12.8	12.0
600 and under 700	12.4	16.1	13.7	3.5	3.3	3.4	11.2	10.5	10.9
700 and under 800	10.6	12.3	11.2	1.8	1.9	1.9	9.3	7.7	8.6
800 and under 900	8.6	8.2	8.5	0.7	1.2	1.1	7.5	5.1	6.4
900 and under 1,000	7.1	6.1	6.8	0.9	0.7	0.8	6.3	3.8	5.1
1,000 and under 1,200	11.0	7.9	9.9	1.3	0.7	0.9	9.6	4.8	7.4
1,200 and under 1,400	16.2	7.0	13.5	1.4	0.6	0.8	15.	4.2	9.9
Could not be determined	7.7	5.7	7.0	5.8	5.6	5.7	7.4	5.7	6.6
Total	100.0	100.0	100.0	100.2	100.0	100.0	100.0	100.0	100.0
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Median weekly earnings	760	651	712	201		262	701	501	601
Mean weekly earnings	907	736	845	299	311	308	821	550	695

Source: ABS Employee Earnings and Benefits Catalogue 6310.0 August 2001

## Appendix C- time use data

**Figure 18: Average Time Spent by People Who Performed Unpaid Household Work, 1997**



Source: ABS 1997 Time Use Survey

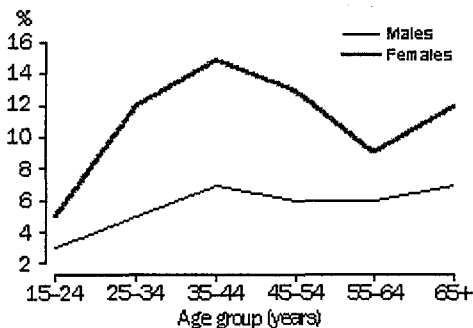
### Age

The type of household work that people perform and the time they commit to these activities varies with age. In 1997, the proportion of people spending time on domestic activities ranged from 68% of people aged 15-24 years to 94% of people aged 65 years and over. Women performed two thirds of all domestic activities.

Women aged between 35 and 44 years performed the greatest proportion of domestic activities of all people (15%), while men in this age group undertook 7% of these activities.

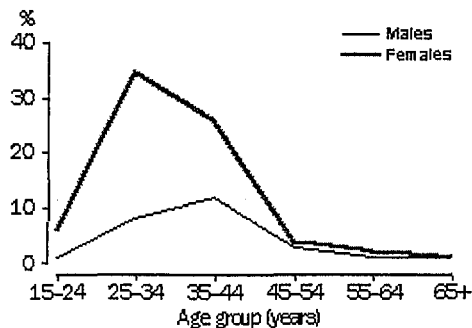
In 1997, people aged between 25 and 44 years performed 82% of all child care. Of this, women performed three quarters. This disparity reflects the number of couples with children where the male partner spent a large amount of time at work while his female partner took on a greater share of child care. The proportion of child care being performed decreased from the age of 45 years, reflecting the fact that children require less care from their parents as they grow older.

**Figure 19**  
**Proportion of Total Time Spent on Domestic Activities, 1997**



Source: ABS 1997 Time Use Survey.

**Proportion of Total Time Spent on Child Care Activities, 1997**



Source: ABS 1997 Time Use Survey.

**Figure 20: Participation in Unpaid Household Activities and Selected Living Arrangements, 1997**

Living arrangements	Participation rates			Average time spent by participants				
	Domestic care %	Child care %	Purchasing %	Total %	Domestic care mins/day	Child care mins/day	Purchasing mins/day	Total mins/day
<b>Males</b>								
Partner in a couple without children	83	4	48	89	142	80	84	180
Partner in a couple with dependent children	78	54	44	90	120	86	73	192
Lone parent	92	18	52	94	160	96	75	217
<b>Females</b>								
Partner in a couple without children	96	6	56	98	204	75	92	257
Partner in a couple with dependent children	98	76	65	100	223	159	93	401
Lone parent	96	52	58	98	194	147	90	322

Source: ABS 1997 Time Use Survey.

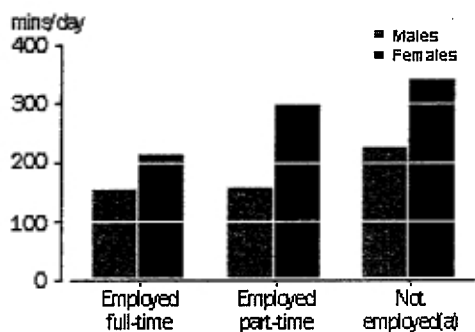
### Labour force status and unpaid work

For many people, available time must be shared between, among other things, paid and unpaid work. If an individual spends a large proportion of their day on paid labour force activities, household work may need to be performed by someone else in the household or by someone outside the household (often in exchange for payment). Alternatively, less time may be spent on these activities.

In 1997, people who were employed spent on average over an hour less per day on unpaid household work than people who were not employed (200 minutes compared with 264 minutes). The time spent on household work varied between female and male participants and whether they worked full-time or part-time.

The greater time spent on household work by women than men is not solely a reflection of the fact that women are less likely to be employed full-time. When comparing the time spent on household work by women and men employed full-time, women were more likely than men to participate in unpaid household work (95% compared with 84%) and to spend more time on this work (211 minutes and 153 minutes respectively). In addition, while there was a large difference between the time spent on household work by women employed full-time and those employed part-time, there was little difference in the time spent on this work between men employed full-time and part-time. Women employed part-time spent an average of 299 minutes per day on household work compared with 211 minutes by women employed full-time. In comparison, men who worked part-time spent virtually the same amount of time on household work as men who worked full-time (157 compared with 153 minutes per day). This reflects the fact that men and women who work part-time often do so at different stages in their lives, and therefore have different responsibilities regarding household work. For example, men are more likely to work part-time either when they are younger and studying, or when they are close to retirement and are less likely to have young children. Women are also likely to work part-time when they are studying, but are more likely than men to work part-time when they have young children and are therefore living in a household requiring more household work to be performed.

**Figure 21: Average Time Spent by People Who Performed Unpaid Household Work and Whether Employed, 1997**



(a) Unemployed or not in the labour force.

Source: ABS 1997 Time Use Survey.