

Preface

This is a report about strengthening marital relationships. It is about preventing marital distress and the consequent breakdown of relationships. It arises from our concern for children; for their future, their happiness, and their ability to form their own loving and fulfilling relationships.

Marriage has been substantially redefined in recent times. In the words of Dr Don Edgar, the former director of the Australian Institute of Family Studies, marriage has been defined backwards by reference to divorce over the past two decades.

Marriage and divorce have often resulted in polarised views within the community. A debate continues between those who say that divorce is a right, not to be encumbered in any way; and those who maintain that it has led to social breakdown and adverse consequences for both adults and children.

We believe that there is another, alternative way forward through the adoption of a national strategy to strengthen marriages and relationships. This strategy calls for a renewed focus on the underlying objectives of marriage and family law in Australia, and the determination to achieve a new balance.

The introduction of the *Family Law Act 1975* reflected changes to matrimonial laws in much of the western world. Prior to 1959, divorce law in Australia remained under the jurisdictions of the States. In that year, the Commonwealth Government, pursuant to s 51 of the Constitution, introduced its own legislation in the form of the Matrimonial Causes Bill. The effect of the Bill was to consolidate the laws of the States into a code of general application throughout Australia. The Act provided 14 grounds for divorce. The Commonwealth Parliament subsequently addressed the formalities for the creation of marriage in the *Marriage Act 1961*.

Fundamental changes to the existing law were proposed when Senator Lionel Murphy, then Commonwealth Attorney-General, introduced a series of bills in 1973 and 1974, culminating in the Family Law Act.

Two fundamental principles can be discerned from the legislation: first, the importance of family; and, secondly, the rights and obligations of spouses both during marriage and upon its ending. Hence the bill introduced in 1973, upon which subsequent bills were drafted, was based on a series of stated principles, the first of which was that 'a good family law should buttress, rather than undermine, the stability of marriage.' The central importance of marriage and family was explicitly recognised in section 43 of the Family Law Act. This section provided that, in making any adjudication, the Family Court must have regard to: the need to preserve and protect the institution of

marriage as the union of a man and a woman to the exclusion of all others voluntarily entered into for life; the need to give the widest possible protection and assistance to the family as the natural and fundamental group unit of society, particularly while it is responsible for the care and education of dependent children; the need to protect the rights of children and promote their welfare; and the means available for assisting parties to marriage to consider reconciliation or the improvement of their relationship to each other and to the children of the marriage.

This pillar was supported by requirements in both the Marriage Act and the Family Law Act for the provision of funds to marriage education and counselling services.

The other pillar of the Family Law Act is reflected in the replacement of the grounds of divorce based on matrimonial fault with a single ground – breakdown of marriage, evidenced by 12 months separation of the parties.

Two decades after the introduction of the Family Law Act, this pillar, the divorce of the parties, remains the predominant operational basis of the legislation.

But when it is claimed that there is a right to divorce, it should not mean that we are uncaring about marriage; when we acknowledge that increasingly the pathway taken into marriage is through cohabitation, we should not ignore the fact that people still seek committed relationships; and when we recognise that many marriages end in separation, we should not abandon our aspiration for strong and healthy marital relationships.

This report calls for the rebuilding of the first pillar of marriage and family policy in Australia. It calls for a national strategy to strengthen and support marriage and relationships in the community. It offers a comprehensive program, building upon the achievements of family service agencies, and recognising the important assistance that government can provide to individuals and organisations dedicated to preventive educational work.

The central theme of this report involves the recommendation that the Family Relationships Services Program should clearly recognise in its objectives and funding mechanisms the programs of prevention (marriage and relationship education, and family skills training) as distinct from programs of therapy, counselling and mediation.

The Committee believes that the priority areas for marriage and relationship education relate to three life transition events, namely, marriage; the birth of the first child; and separation (including the formation of new relationships).

The Committee calls for a \$1.6 million increase in funding to the preventive programs of marriage and relationship education, and a new fairer and transparent funding system that will help to encourage more people to participate in these programs.

The Committee also recommends that a new Council for Marriage, Relationships and Parenting Education be established as a peak body in the field, both to represent the educators involved in this work, and, where appropriate, to provide advice to the Commonwealth Government.

It is further recommended that the Australian Institute of Family Studies be relocated in the Attorney-General's Department, and its statutory function to promote, by the conduct and encouragement of research, identification and understanding of the factors affecting family and marital stability be renewed.

The Committee also calls for an increase of \$1.5 million in funding to programs of marriage counselling.

Other recommendations are set out in the body of the report.

For the past two decades, much attention has been given to strategies to lessen the consequences of marriage breakdown. Much time and many reports have been spent on separation, divorce and family law.

It is timely to renew our attention on the causes of marital stability and instability, and to promote programs of preventive education.

Kevin Andrews MP
Chairman

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