Shared Parenting Council
of Australia

Submission

on the

Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008

to the

Senate Legal and Constitutional Affairs Committee

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1. Executive Summary

The Shared Parenting Council of Australia recommends that the Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008 be withdrawn until wider public consultation has be sought and the views of the community have been properly considered.

In its current form it imposes a radical social agenda on de facto (in fact) married couples by equating their relationships with same-sex interdependent couples. As de facto (in fact) married couples are often considered equal (or next to equal) to fully committed married couples in respect of procreation and mothering and fathering, it is entirely inappropriate to conflate de facto marriages with same-sex relationships in law and by legal definition.

The Bill is contentious too because it de-genders the definition of a de facto couple removing "man" and "women" in order to create a fluid legal definition of a parent, rather than the natural parents assumed by reference to man (father) and woman (mother). This directly weakens marriage. This also directly weakens the father-mother idea of parenting. It also instigates a legal framework for the eventual legalisation of same-sex marriage and thus jeopardises the definition of marriage in the Marriage Act 1961 that "Marriage, means the union of a man and a woman to the exclusion of all others, voluntarily entered into for life".

The SPCA makes the following findings about the Bill:-

1) The definition of *de facto relationship* need not and should not change in order to extend benefits to same-sex interdependent couples. In the Bill, reference to same-sex interdependent couples (or similar wording) could be made as required to avail them of the intended benefits without modifying existing core definitions.

2) Marriage and de facto marriage is about embodiment not sexual orientation. Gender matters and marriage does not inquire of orientation or preference, rather it requires opposites, a man and a woman to be the natural parents. Legally and culturally accepted and well-known, well-understood definitions of men and women joined in a heterosexual de facto (in fact) marriage should not be altered/conflated and confused with definitions for same-sex relationships, especially as the impact is to profoundly diminish the mother-father paradigm with its capacity for procreation.

3) This Bill by design advances the legal status/acceptance of same-sex marriage behind the laudable goal of reducing discrimination and giving access to financial benefits/entitlements. It does this in part by eliminating natural parents from law and in part by conflating same-sex and de facto couples into a singular definition when they are demonstrably different.

4) This Bill substantially erodes traditional marriage and mother-father parenting. Family Law reform should not be destructive of the institution of marriage and the institution of mother-father parenting, nor should it culturally weaken these and the child's right to its natural family and natural parents.

5) The approach used to group married, de facto married and same-sex relationships under a common grouping of "Couple" and "Couple Relationships" is highly problematic as these groups by definition and by their nature are not the same *in fact* and therefore should not be made the same *in law*.

6) The approach taken in this Bill is traceable to the HEROC report "Same-Sex: Same Entitlements - National Inquiry into Discrimination against People in Same-Sex Relationships: Financial and Work-Related Entitlements and Benefits". The Report recommends legislative change to omit direct and indirect references to the "natural parent" and/or trades legal definitions and references to natural parents in law with new genderless definitions of parent. This appears contrary to the spirit of the Universal Declaration of Human Rights where the child's right to its natural parents is upheld. HEROC exceed their mandate to equalise work-related entitlements and benefits and clearly their recommendations create a pathway to introduce same-sex marriage. Removing natural parent terminology from law would weaken traditional mother-father parenting and make same-sex parenting normative when clearly marriage with its inherent procreation potential and mother-father parenting of children is the culturally normative arrangement.

7) The Bill will make discriminatory any public show of support in upholding the privileged mother-father idea of parenting in de facto relationships. It strikes at the heart of children's birth right to a mother and a father whether that is through marriage or de facto marriage.

8) De facto and married couples share procreation and parenting in common. But often de facto relationships self-impose limits on the degree to which they enmesh their relationship and financial commitments. To treat de facto couples automatically the same as married couples is an unfair imposition. Furthermore, equating de facto relationships as currently understood in culture and in law, with same-sex interdependent relationships is a gross distortion. The Law is a good teacher - this change amounts to social engineering, clearly meant to diminish understandings and legal regard for the profound differences between different-sex and same-sex couples, with an undeclared aim to position society for future introduction of same-sex marriage – The bill in its current form is radical, provocative, and controversial and should not proceed.

2. Fundamental Errors in HREOC Report

The Australian Government has commenced removing discrimination against same-sex couples from Federal laws. In order to revise legislation and for guidance on how to make changes to legal terminology including changes to legal definitions, both Federal and State Governments would appear to draw heavily on the Human Rights and Equal Opportunity Commissions' report titled "Same-Sex: Same Entitlements - National Inquiry into Discrimination against People in Same-Sex Relationships: Financial and Work-Related Entitlements and Benefits."

In Section 4.1, paragraph 2 of the HREOC Report, the Commission states the following:-

The primary source of discrimination against same-sex couples in federal laws conferring financial and work-related entitlements is the way in which terms such as 'spouse', 'de facto spouse', 'partner', 'member of a couple' and other similar terms are defined in legislation. These definitions routinely include an opposite-sex partner and exclude a same-sex partner.

The Shared Parenting Council of Australia disagrees with the assertions of HEROC that existing terminology and definitions cited by HEROC actively discriminate against same-sex persons in an interdependent relationship (same-sex couples). Rather it is the absence of a contemporary language; contemporary terms and contemporary definitions to reference and adequately describe the existence of same-sex couples in pre-existing legislation which currently negates consideration of same-sex couples. That is, the work is yet to be done to agree a common language for referencing same-sex relationships. However the SPCA wishes to caution that simply redefining existing terms referencing different-sex couples (married and de facto married) is culturally reckless as it impacts the meaning of socially well understood terms such as "de facto relationship". The Australian Government has no mandate to make changes which debase the meanings of both marriage and de facto marriage as currently supported by numerous references in many acts of parliament. It is also counter-intuitive and destructive of marriage to import new meanings and associations to "the prevailing legal language of marriage" by identifying closely with and implying sameness with same-sex relationships, by changing known definitions and by conflation of same-sex relationships and same-sex parentage with well known terms identifying marriage, de facto marriage, and natural parentage (natural parents). The proper dignity for same-sex relationships and respectful treatment in law will be achieved when the necessary work is done to;

a) Define with specific terminology and adequately references in law the unique relationships of same-sex couples (analogous to but uniquely different to different-sex married and de facto couples) and deserving of recognition of their intrinsic dignity and deserving of access in law to, until now, inaccessible financial and work related entitlements

b) Insert in legislation the references to and definitions of same-sex couples alongside existing definitions of married couples and de facto married couples (de facto relationships) where appropriate, so as to preserve the legal and cultural meaning of ALL the distinct groups referenced in legislation, without conflating definitions and without importing new meanings to existing legal definitions and terms.

HEROC has not performed this necessary work, instead opting for expediency by proposing altering existing definitions of spouse and de facto relationship and a range of other terms normally associated with marriage or de facto married couples, without having due regard for the legal and cultural impact on the institution of marriage and society at large such radical changes would impart.

The HEROC Report, Section 4.6.3 Summary of recommendations; recommends that the Federal Parliament amend federal law to ensure equal access to financial entitlements and benefits for all couples – be they married or unmarried, opposite-sex or same-sex. It recommends that "the Federal Parliament should introduce

'omnibus' legislation to simultaneously eliminate discrimination against same-sex couples in all federal laws identified in Appendix 1 to this report."

The HREOC report goes on to say "The Inquiry's preferred approach to amendments is that the omnibus legislation:

> *retain the current terminology used in federal legislation;*
>
> *redefine the current terminology to include same-sex couples;*
>
> *insert a new definition of 'de facto relationship' and 'de facto partner' following the model definition in section 4.6.2(b).* ***{Note this is the model definition now proposed in the FAMILY LAW AMENDMENT (DE FACTO FINANCIAL MATTERS AND OTHER MEASURES) BILL 2008.}***

The referenced report by HREOC, in arguing to extend previously denied rights to same-sex couples, is fundamentally flawed because its recommendation reaches beyond its mandate. It goes too far because it proposes amending in law the legal and cultural understanding and recognition of different-sex couples (married men and women) as well as men and women in a de facto marriage (de facto relationship), beyond what is merely required to be inclusive of same-sex couples for the purposes of receiving financial and work-related entitlements and benefits. **In fact there is no substantive case put forward as to why the various definitions and hence meaning of *de facto relationship* would need to be altered other than expediency for the drafters of legislation. This is a weak reason that has little or no currency.**

The HEROC Report argues "It is simple to remove discrimination against same-sex couples in federal financial and work-related entitlements: change the definitions in the 58 laws listed in Appendix 1 to this report". Furthermore it argues that:

> *"There is no need to rewrite federal tax legislation, superannuation legislation, workers'compensation legislation, employment legislation, veterans' entitlements legislation or any other major area of federal financial entitlements. There just needs to be some changes to a few definitions at the front of each relevant piece of legislation."*

It is the view of the Shared Parenting Council of Australia that HREOC's assertions couldn't be further from the truth. The attempt by HREOC to "dumb down" the Australian people's lived experience of the multi-faceted dimensions of de facto marriage (de factor relationship) and remove fundamental references to the natural parents "man and a woman...as spouses" is revealing of an undeclared proactive agenda to introduce same-sex marriage "through the back door" of de facto relationships - de facto married parents are accepted to be closely equivalent to traditionally married parents and generally protective of children's best interests to know and experience the love of both their male and female natural parents, which is why the targeting of de-facto relationships is such a potent tool in weakening traditional marriage; it is the "wedge used to jar open the door" on the sanctity and exclusivity of traditional heterosexual marriage.

3. Marriage: A Heterosexual Institution

The assertion by HEROC and implied by the actions of State Attorney Generals is that all couples are essentially the same and should be treated the same in law. This premise is at odds with the accepted societal norms that society and the law has always privileged marriage with a special status, held in high esteem and afforded benefits and concessions for the sake of the children of the marriage.

Most Australians would agree that Marriage is a heterosexual Institution. The Marriage Act 1961 contains the definition;

> *"Marriage, means the union of a man and a woman to the exclusion of all others, voluntarily entered into for life."*

Disturbingly, the trend to remove and/or redefine terms in State and Federal Legislation which directly or indirectly reference the existence of the child's natural parents is having the effect of diminishing marriage as a legal and cultural institution. The subject of this Inquiry, The Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008, is a case in point. Without any public consultation the Bill proposes a new definition to change the existing definition and the people's understanding of de facto marriage or de facto relationship. The blatant encroach on the venue of traditional marriage (albeit through the lens of de facto marriage), can be seen by contrasting the existing definition of de facto relationship with the definition proposed in the Bill. The new definition is one that is devoid of the **union of a man and a woman** and devoid of reference to **husband and wife.** It is incredibly difficult to believe that this change was motivated along lines of equity. Rather it is a clear attempt to advance the concept and realisation of same-sex marriage (gay marriage) by legislative stealth. It seeks to impose a totally new paradigm of what constitutes a de facto relationship in contemporary Australian society where the union of a man and woman is deliberately disregarded. Yet it is the union of a man and a woman who have the potential for procreation of children and Australians can reasonably expect that the status of de facto marriage not be diluted or equated to same-sex marriage which has not the same potential for procreation.

Text determining the definition of de facto relationship	
Family Law Act 1975	**Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008**
4 Interpretation de facto relationship means the relationship between a **man and a woman** who live with each other **as spouses** on a genuine domestic basis although not legally married to each other. **60H Children born as a result of artificial conception procedures**	**4AA De facto relationships** *Meaning of* ***de facto relationship*** (1) A person is in a ***de facto relationship*** with another person if: (a) the persons are not legally married to each other; and

(4) If a person lives with another person as the **husband or wife** of the first-mentioned person on a genuine domestic basis although not legally married to that person, subsection (1) applies in relation to them as if: (a) they were married to each other; and (b) neither person were married to any other person.	(b) the persons are not related by family (see subsection (6)); and (c) having regard to all the circumstances of their relationship, they have a relationship as a couple living together on a genuine domestic basis. Paragraph (c) has effect subject to subsection (5). *Working out if persons have a relationship as a couple* (2) Those circumstances may include any or all of the following: (a) the duration of the relationship; (b) the nature and extent of their common residence; (c) whether a sexual relationship exists; (d) the degree of financial dependence or interdependence, and any arrangements for financial support, between them; (e) the ownership, use and acquisition of their property; (f) the degree of mutual commitment to a shared life; (g) whether the relationship is or was registered under a prescribed law of a State or Territory as a prescribed kind of relationship; (h) the care and support of children; (i) the reputation and public aspects of the relationship. (3) No particular finding in relation to any circumstance is to be regarded as necessary in deciding whether the persons have a de facto relationship. (4) A court determining whether a de facto relationship exists is entitled to have regard to such matters, and to attach such weight to any matter, as may seem appropriate to the court in the circumstances of the case.

	(5) For the purposes of this Act: (a) a de facto relationship can exist between 2 persons of different sexes and between 2 persons of the same sex; and (b) a de facto relationship can exist even if one of the persons is legally married to someone else or in another de facto relationship. *When 2 persons are related by family* (6) For the purposes of subsection (1), 2 persons are related by family if: (a) one is the child (including an adopted child) of the other; or (b) one is another descendant of the other (even if the relationship between them is traced through an adoptive parent); or (c) they have a parent in common (who may be an adoptive parent of either or both of them). For this purpose, disregard whether an adoption is declared void or has ceased to have effect.

A plethora of legal amendments which strike at the core of traditional marriage and de facto marriage are advancing through both Federal and State Parliaments. Another example of moves to introduce gay marriage surreptitiously can be seen in recent events in New South Wales.

The NSW Same Sex Relationships Bill 2008 sought to amend some 57 Acts of Parliament to remove commonly known terms which define a natural parent with terms that define a genderless legal parent with the future potential for 3 or more legal parents to exist for any child. The passing of this legislation also debased the NSW birth certificate as an accurate vital record of a birth by allowing for the legal fiction that "two women made a baby" without proper status being afforded to the natural biological father. In the case of lesbian couples and sperm donors coming together to create a child, the erasure of the child's biological father from being recorded as the true parent was an unconscionable act by the NSW Government. Furthermore the Bill promotes and aides the purposeful conception of a child on entering the world to be rendered fatherless, which directly contravenes the Universal Declaration of Human Rights which upholds the child's right to his natural mother and natural father. The future direction of such legislation is to replace the natural parents with a legal parent entity (which is happening now) wherein the State can then determine who is allowed to be a child's parent, who will exercise

parentage of the child (fluid re-assignable parenting). When 3 or more interested parties become legally recognised parents, as may happen one day by court order, custody disputes will be intractably difficult with the probable consequence that the child will be segregated from one or both of his/her natural parents. A further logical consequence is that 3 or more legal parents may demand the right to marry in order to form polygamous marriages, and will yield a powerful argument given that biological parentage would have been de-coupled from the children by Government, with subsequent loss of the exclusive rights of natural parents to raise and protect their own children, a right formerly recognised through the institution of heterosexual marriage and upheld by international instruments but operatively dependent on Governments to implement.

4. Marriage and Children's Rights

As the proposed Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008 seeks to normalise same-sex relationships with de facto marriage relationships with consequences for marriage and children of married and never married heterosexual parents, it is worth reflecting on some insightful comments on marriage by experts in this field.

> ***The following observations about marriage is adapted from Culture Watch - Bill Muehlenberg's commentary on issues of the day…A review of The Future of Marriage. By David Blankenhorn. Encounter Books, 2007. www.billmuehlenberg.com***

David Blankenhorn is founder and president of the Institute for American Values, a nonpartisan organisation devoted to strengthening families and civil society in the U.S. and the world. David Blankenhorn is a world authority on the institution of marriage. He has studied marriage for more than 20 years. Some of his deep insights into marriage and a fundamental definition of marriage itself are presented below:-

"In all or nearly all human societies, marriage is socially approved sexual intercourse between a woman and a man, conceived both as a personal relationship and as an institution, primarily such that any children resulting from the union are – and are understood by society to be – emotionally, morally, practically, and legally affiliated with both of the parents."

Blankenhorn elucidates what has been the universal belief about marriage: It reflects the fundamental belief that ***"for every child, a mother and a father"***.

He argues that marriage is based on two universal and timeless basic rules: ***the rule of opposites (marriage is man-woman) and the rule of sex (marriage involves sexual intercourse).***

Blankenhorn is emphatic that ***"marriage is fundamentally about sex and reproduction"***. And children born into married households are greatly advantaged. As such, ***"Marriage is society's most pro-child institution."*** The research on how children fare in a two-parent household cemented by marriage is now voluminous. No other type of relationship is as good for children as heterosexual marriage. Family structure, in other words, matters overwhelmingly for children.

And given the intimate link between marriage and parenting, ***"to change the institution of marriage is to change parenthood itself. Changing marriage changes marriage for everyone, and it will change parenthood for everyone."*** But as the research keeps telling us, that will be bad news for children. Says Blankenhorn, ***"every child in the world has a right to a name, a nationality, and a mother and father."***

In addition to the deinstitutionalisation of marriage, same-sex marriage would ***"require us in both law and culture to deny the double origin of the child."*** Says Blankenhorn, "I can hardly imagine a more serious violation".

He writes, ***"Across history and cultures . . . marriage's single most fundamental idea is that every child needs a mother and a father. Changing marriage to accommodate same-sex couples would nullify this principle in culture and in law."***

> ***"The law is a great teacher, and same sex marriage will teach future generations that marriage is not about children but about coupling. When marriage becomes nothing more than coupling, fewer people will get married to have children."***

So what? People will still have children, of course, but many more of them out-of wedlock. That's a disaster for everyone. Children will be hurt because illegitimate parents (there are no illegitimate children) often never form a family, and those that "shack up" break up at a rate two to three times that of married parents. Society will be hurt because illegitimacy starts a chain of negative effects that fall like dominoes—illegitimacy leads to poverty, crime, and higher welfare costs which lead to bigger government, higher taxes, and a slower economy.

Are these just the hysterical cries of an alarmist? No. We can see the connection between same-sex marriage and illegitimacy in Scandinavian countries. Norway, for example, has had de-facto same-sex marriage since the early nineties. In Nordland, the most liberal county of Norway, where they fly "gay" rainbow flags over their churches, out-of-wedlock births have soared—more than 80 percent of women giving birth for the first time, and nearly 70 percent of all children, are born out of wedlock! Across all of Norway, illegitimacy rose from 39 percent to 50 percent in the first decade of same-sex marriage.

Anthropologist Stanley Kurtz writes, "When we look at Nordland and Nord-Troendelag — the Vermont and Massachusetts of Norway — we are peering as far as we can into the future of marriage in a world where gay marriage is almost totally accepted. What we see is a place where marriage itself has almost totally disappeared." He asserts that "Scandinavian gay marriage has driven home the message that marriage itself is outdated, and that virtually any family form, including out-of-wedlock parenthood, is acceptable."

But it's not just Norway. Blankenhorn reports this same trend in other countries. International surveys show that same-sex marriage and the erosion of traditional marriage tend to go together. Traditional marriage is weakest and illegitimacy strongest wherever same-sex marriage is legal.

5. Human Rights Protection in International Law

The Universal Declaration of Human Rights (UDHR) is a declaration adopted by the United Nations General Assembly (10 December 1948 at Palais de Chaillot, Paris). The Declaration arose directly from the experience of the Second World War and represents the first global expression of rights to which all human beings are inherently entitled.

Extract (UDHR):-

Article 16.

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

The following excerpts are taken from David Blankenhorn's presentation at historic Dartmouth College (USA), March 30th, 2008, in a panel and public discussion for the Vermont Marriage Advisory Council (VMAC), attended by a balanced mix of same-sex marriage advocates and opponents, as well as a number of Dartmouth faculty and members of VMAC

On the issue of the Children's Inalienable Human Rights to their Natural Parents and Natural Family – BLANKENHORN: "As to the Universal Declaration of Human Rights, which is the parent document of all human rights instruments in the world today, it states that the natural family is the fundamental social unit and it states that, the import is, that the child, in so far as it's possible has a right to know its two parents and the reference to the natural family in the previous statement makes it crystal clear what the authors have said. Students of the document, ranging from Marian Glenden, law professor, whose most recent book about this is called "A world made new", and Don Browning at the University of Chicago who has written extensively about this, and plenty of other legal scholars have made crystal clear this point. Secondly, the Declaration of the Rights of the Child is merely the implementation at the level of law of the 1948 Universal Declaration of Human Rights. It presumes as a backdrop, legally, the Universal Declaration of Human Rights ... and it also refers to the child's right to two parents....you cannot make those words go away."

On the issue of justice rights and lack of equity for same-sex couples prevented from marrying their same-sex partner versus children's exclusive right to the marriage institution and a mother and a father, preserved and protected in traditional marriage – BLANKENHORN: "What I'm really saying to you and with respect and in recognising the power of your argument - I'm saying to you that justice applies to children as well. What I would ask you to do is to reflect on why the two most important human rights documents in the world, the Universal Declaration of Human Rights and The Convention on the Rights of the Child, make explicit this right, and I want you to reflect upon the degree to which your proposal in the name of justice would revoke that universally recognized right that children now currently enjoy. Children have equity rights too. In our shared Christian tradition and in all of the great faith traditions, when rights come into conflict, it is the ethically desirable thing to do is to side with the voiceless and the powerless, to side with those people that do not have the power to speak for themselves, or do not have money and influence and in this case it is clearly the children."

On the question posed as to what factors when weighed against affording marriage to same-sex couples who have children, outweighs the benefits marriage would provide to these children - BLANKENHORN: "If we change the law

to extend marriage rights on an equal basis to gay and lesbian people we would be eradicating in law, eradicating in law, and weakening dramatically in culture, the principle that every child deserves a mother and father...and I have two eleven year old daughters....and if I went into their school... on "what does your daddy do for a living day" and said that I'm a guy who works on the principle that every child deserves a mother and a father, under the legal and cultural regime of same-sex marriage, that statement would be something reasonably close to hate speech. It would be viewed as discriminatory beyond pale, something that could not, simply could not be said, so what I have spent my whole life arguing, is that children have a birth right to a natural mother and a natural father, that are there for them and there for each other, and that we should strive to increase that number, simply saying it would be impermissible, it would be viewed as a hateful almost illegal thing to say... not only would it legally eradicate the privileged position of the mother-father idea, it would culturally weaken it. How many other millions of children this year and the next year and the year after that and the year after that in ever larger numbers, are going to be denied the birth right of their own two parents, because we can no longer even say that it is a birth right!"

On Sylviane Agacinski, a French philosopher and professor at the École des hautes études en sciences sociales (EHESS) {School of Social Sciences}. She is married to Lionel Jospin, the former Prime Minister of France. Sylviane is a 56-year-old feminist writer and teacher, from a family of immigrant Poles, with a son by France's world-famous structuralist philosopher Jacques Derrida. She is the author of several books - including "The politics of the sexes" and "A critique of egocentrism" BLANKENHORN: "Sylviane Agacinski has a wonderful phrase called "The double origin of the child". She says, "Every child has a double origin; a male and a female come together to make every child. Society, on grounds of equity may never efface the double origin of the child."

The idea that children are held harmless in this is not true. We are headed toward a legal regime that's basically going to say "the parent of this child is "whoever is around the child at the moment". If you think people create huge messes with two parents, then try three or four (parents). It is a serious erosion of children's rights. We say that children have this right, not because we're old fashioned, not because we're fetishistic about biology – we do it to protect their interests and we are revoking this protection and we're doing it in the name of recognising the worth of gay and lesbian people...but we are diminishing their (children's) rights in a real and measurable way.

6. Marriage and Family Law Reform

It can be said that the amendments proposed in the FAMILY LAW AMENDMENT (DE FACTO FINANCIAL MATTERS AND OTHER MEASURES) BILL 2008 treat human relationships (and hence human persons) as objects and entities, legal constructs, and seeks to change the meaning of culturally significant definitions and marriage/de facto marriage institutions in a dehumanising way. When family law reform treats persons and their intimate relationships as subjective ideas which can be manipulated to change their inherent meaning, then the law ceases to be operating in the best interests of its citizens and particularly the children.

How should family law treat marriage? The Institute for American Values and Institute for Marriage and Public Policy in a report titled "MARRIAGE AND THE LAW: A Statement of Principles", says the following about the application of family law to marriage in North America which arguably applies equally to Australian family law.

"**The most important benefits of marriage are not the sole creation of law.** Social science evidence strongly suggests the prime way that marriage as a legal institution protects children is by increasing the likelihood that children will be

raised by their mother and father in lasting, loving (or at least reasonably harmonious) family unions. **Marriage in any important sense is not a creation of the State, not a mere creature of statute.**

For marriage to create these benefits, **it must be more than a legal construct.** Creating a marriage culture that actually does protect children requires the combined resources of civil society—families, faith communities, schools, and neighbourhoods—public policy, and the law in order to channel men and women towards loving, lasting marital unions. In recent years more Americans, and more family scholars, are taking marriage seriously.

A prime goal of marriage and family law should be to identify new ways to support marriage as a social institution, so that each year more children are protected by the loving marital unions of their mother and father.

Unfortunately, the recent trend in family law as a discipline and practice has been just the opposite. Family law as a discipline has increasingly tended to commit two serious errors with regard to marriage: (a) to reduce marriage to a creature of statute, a set of legal benefits created by the law, and (b) to imagine marriage as just one of many equally valid lifestyles. This model of marriage is based on demonstrably false and therefore destructive premises. Adopting it in family law as a practice or as an academic discipline will likely make it harder for civil society to strengthen marriage as a social institution.

7. Brief Biography of Marriage Expert David Blankenhorn

(For a brief biography of David Blankenhorn see page 14)

http://www.familiesnorthwest.org/uploads/DavidJeffBioFINAL.pdf

Biographies

David Blankenhorn

David Blankenhorn is founder and president of the Institute for American Values, a nonpartisan organization devoted to strengthening families and civil society in the U.S. and the world.

A 1998 profile in the *New York Times* describes Blankenhorn as a "consensus builder for a moral base in society." Mary Ann Glendon of Harvard Law School writes: "No one writes about the crisis in American family life with more candor, intelligence, and sympathetic understanding than David Blankenhorn." *USA Today* in 2000 describes Blankenhorn as "leading a grass-roots movement" to strengthen marriage. A 1995 profile in the *Los Angeles Times* called him "the de facto navigator" of a new fatherhood movement and the Idaho Statesman describes Blankenhorn's 1995 book, *Fatherless America*, as "the bible of the fatherhood movement." In 2005, Carl Gershman of the National Endowment for Democracy called Blankenhorn's Islam/West project "the most effective initiative to influence opinion in the Arab world since 9/11." His most recent book, "The Future of Marriage," was published this year.

Blankenhorn has co-edited eight books: *Rebuilding the Nest: A New Commitment to the American Family* (1990); *Seedbeds of Virtue: Sources of Competence, Character, and Citizenship in American Society* (1995); *Promises to Keep: Decline and Renewal of Marriage in America* (1996); *The Fatherhood Movement* (1999); *The Book of Marriage: The Wisest Answers to the Toughest Questions* (2001); *Black Fathers in Contemporary American Society* (2003); *Does Christianity Teach Male Headship?* (2004); and *The Islam/West Debate* (2005).

In 1994, Blankenhorn helped to found the National Fatherhood Initiative, serving as that organization's founding chairman. In 1992, he was appointed by President Bush to serve on the National Commission on America's Urban Families. A frequent lecturer, Blankenhorn's ideas have been cited in *Time*, *Newsweek*, the *Economist*, and elsewhere, and his articles have appeared in scores of publications, including the *New York Times*, the *Washington Post*, the *Los Angeles Times*, *USA Today*, *First Things*, and *Christianity Today*. He has been profiled by the CBS *Evening News* and other news organizations, and has been featured on numerous national television programs, including *Oprah*, CBS *This Morning*, *The Today Show*, *Charlie Rose*, ABC *Evening News*, and C-SPAN's *Washington Perspectives*.

Prior to founding the Institute in 1987, Blankenhorn worked as a community organizer in Virginia and Massachusetts. He served two years as a VISTA Volunteer. A native of Jackson, Mississippi, Blankenhorn attended public schools in Jackson and in Salem, Virginia. As a high school student, he founded the Mississippi Community Service Corps and the Virginia Community Service Corps. In 1977, he graduated magna cum laude in social studies from Harvard, where he was president of Phillips Brooks House, the campus community service center, and the recipient of a John Knox Fellowship. In 1978, he was awarded an M.A. with distinction in comparative social history from the University of Warwick in Coventry, England.