

# The Well Being of Children Following Parental Separation and Divorce Research Consortium

## Literature Review

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# **PART ONE: The impact of parental separation and divorce on children's functioning**

## **Introduction**

The relationship between parental separation and divorce and the well being of children is not one of simple cause and effect. Views about the links between the two have changed over time as more research reveals the strength but also the complexity of the relationship. The earliest divorce research argued that parental separation and divorce had only a short term impact on children's well being that was likely to disappear over time (Wallerstein and Blakeslee, 1989; Wallerstein and Kelly, 1996). Further research showed the history and state of the partnership prior to breakdown could influence events for a long time afterwards, as for example when prior parental conflict and or domestic violence continued after separation and affected the children's family and social relationships and the mental health of the children (Johnson, 1995). A gathering together of research by Rodgers and Pryor (2001) to assess the impact of separation and divorce more broadly showed widespread impact for some children. More recently Wallerstein published extensions of her work that contradicted her initial observations and concluded long term damage and disadvantage does occur (Wallerstein, Lewis and Blakeslee, 2000).

Currently research is clarifying the relation between separation and divorce and the well being of children by suggesting that parental separation and divorce is not just one event but a long term process and that it may trigger later damaging effects. For example, it has emerged that parental separation and divorce leaves children vulnerable to a heightened risk of physical and sexual abuse occurring after parental separation, perpetrated by both family and non-family members (Hester and Ratford, 1997; Wilson 2002), that extends to a heightened risk of death (Mousos and Rushforth, 2003; NSW Child Death Review Team, 2008). In addition, researchers have moved beyond simply asking whether divorce affects children and have called for a process-oriented approach which involves examining features of a child's life before and after divorce in order to gain an understanding of the circumstances by which parental divorce adversely affects some children more than others (Amato, 2000; Hetherington and Stanley-Hagan, 1999; Kelly and Emery, 2003).

Researchers agree that the degree of parental conflict is a major stressor and a salient risk factor associated with children's adjustment to parental separation and divorce (Barnes, 1999; Hetherington and Stanley-Hagan, 1999; McIntyre, Heron, McIntyre, Burton and Engler, 2003; O'Conner, 2003; Rushena, Prior, Sanson and Smart, 2005). Some literature shows that children have greater psychological problems when their parents are in conflict, either during marriage or following divorce (Kelly and Emery, 2003) and children from divorced but conflict-free homes have been found to have fewer behavioural problems than children remaining in a conflicted marriage (Hetherington and Stanly-Hagan, 1999). Children's adjustment improves when conflict declines after divorce (Kitzmann and Emery, 1994). Most experts agree children will be better off living in a conflict free divorced family than a conflict ridden married one (Emery, 1999). Children are also at a higher risk for emotional difficulties

when parents are too preoccupied with their own adjustment to carry out parental responsibilities adequately after the divorce (Bream and Buchanan, 2003), and when parental interest and investment after the divorce, as well as the parent-child relationship, deteriorate (Kelly, 2007).

Resiliency is a key factor in a child's ability to adapt to the separation and divorce of their parents and research has placed attention on positive factors that will enhance children's resiliency and decrease maladaptive and negative outcomes (Chen and George, 2005). Children's resilience can be developed and cultivated by the positive action of the adults, and by the reduction of risk factors (Pedro-Carroll, 2005). Factors that support children's adjustment include parental cooperation (Whiteside, 1998), parents' adjustment and mental health (Kelly, 2000), stable financial circumstances (Amato, 2000), and a supportive social and familial safety net (Buchanan, Maccoby, and Dornbusch, 1996).

Pryor and Rodgers (2001) conducted an analysis of research studies into the well being of children following parental separation and divorce in areas including: social and emotional functioning in childhood; education and socio-economic outcomes in adulthood; physical health and development in childhood and adulthood; mental health and well being in adolescence and adulthood; and family and intimate relationships in adolescence and adulthood. Guided by the structure of Pryor and Rodgers' (2001) analysis, a review of the literature in these areas, with the addition of the area of economic functioning follows.

## **Social and emotional functioning in childhood**

In an analysis of 13 studies that compared children from separated and intact families in respect of social and emotional behaviour in childhood and adolescence conducted between 1944 and 1998, Pryor and Rodgers (2001) found that no study showed children from separated families doing better than their peers from intact families. In one example, the Australian Mater Study of Pregnancy, 15 percent of children from divorced families showed withdrawn behaviour at age five, compared with 10.3 percent of children from intact families (Najman, Behrens, Anderson, Bor, O'Callaghan and Williams, 1997). There is no clear pattern across the range of outcome measures used in these studies, with differences of similar magnitude being found for a diverse range of behaviours including bed-wetting, withdrawn behaviour, habit behaviours, social/attentional problems and other mixed social/emotional problems (Pryor and Rodgers, 2001). There is some suggestion that effect sizes are larger for outcomes reflecting the receipt of treatment, as compared with other direct measures of behaviour, which indicates it is possible that the experience of parental separation and divorce increases the likelihood that a child is referred for behaviour problems, above and beyond the increased presence of the difficulties themselves (Pryor and Rodgers, 2001). The analysis by Pryor and Rodgers (2001) also showed there was no indication of any trend in effect sizes from earlier-born or later-born cohorts, any systematic differences between younger and older children and no evidence for a difference across the UK, USA and Australia, the countries represented in the analysis.

Results of other studies not included in the analysis performed by Pryor and Rodgers (2001) show that the risk of poor social adjustment is twice as great for children whose parents are

separated or divorced (Amato, 2000; Simons, Lin, Gordon, Conger, and Lorenz, 1999; Emery, 1999; Kelly, 2000; Hetherington and Kelly, 2002). Among other things, children from divorced families showed increased problems in social and close relationships (Hetherington 1997), were two to three times more likely to associate with antisocial peers (Amato and Keith, 1991), engaged in earlier commencement of sexual activity, including being twice as likely to encounter teenage pregnancy (McLanahan, 1999), and were at a greater risk of substance abuse due to reduced parental monitoring and quality of parenting and less effective coping skills (Neher and Short, 1998).

## **Education and socio-economic outcomes in adulthood**

All but one (Amato and Booth, 1999) of the 23 separate studies conducted between 1957 and 1999 included in Pryor and Rodgers' (2001) analysis found there to be evidence that children from separated families were disadvantaged in respect of education and socio-economic outcomes in childhood and adulthood compared to children of intact families. In one of these early studies, Nye (1957) found that 13 percent of children from separated families had poor school grades compared with seven percent from intact families (Pryor and Rodgers, 2001). In another US study, McLanahan and Sandefur (1994) found 16 percent of children dropped out of high school from separated families compared with nine percent from intact families. Evans, Kelly and Wanner (2001) also found that children from separated and divorced families were more likely to drop out of school, even when socio-economic factors were taken into account. Reasons for this higher rate of school drop-out and lower attainment levels include the adverse impact of parental conflict (including anxiety and depression); reduced parental encouragement, support and control; and less commitment from step-parents (Evans et al, 2001). School drop out and delinquency are among a host of other possible problematic health and well being outcomes that have an increased likelihood for children following parental separation, when compared to children of intact families (Amato and Keith, 1991). Lower school achievement outcomes have ramifications for socio-economic factors later in life. In the UK, the Avon Longitudinal Study of Pregnancy and Childhood conducted by O'Connor, Thorpe, Dunn and Golding (1999) found 11 percent of women who had experienced parental divorce as children lived in overcrowded housing as adults, as compared with five percent of other women (Pryor and Rodgers, 2001).

Pryor and Rodgers (2001) found there to be a notable difference in outcome across types of measurement for the studies in their analysis. Direct assessment of educational skills (such as reading and arithmetical ability) showed smaller differences between children of separated and intact families than measurement of attainment expressed in terms of final qualifications received or years remaining in school or full-time study (Pryor and Rodgers, 2001). These different effect sizes observed when comparing the two measures of educational outcomes could reflect extrinsic constraints on children from separated families completing their education, which might include lack of socio-economic and other resources in such families that facilitate full-time study, and the greater likelihood that children who have experienced parental separation will leave home earlier (Kiernan, 1992), (Pryor and Rodgers, 2001).

The work of Pryor and Rodgers (2001) shows that there is no indication that effect sizes for the studies of educational and socio-economic outcomes have increased or decreased over successive generations, or that geographical locations showed any difference in outcome.

## **Physical health and development in childhood and adulthood**

The magnitude of differences between children who have experienced parental separation and divorce and children from intact families in the area of physical health and well being is smaller than for the social and psychological outcomes previously discussed, and far fewer studies have examined such outcomes (Pryor and Rodgers, 2001). The nature of outcomes in this area ranges from the use of health services in early childhood (for example immunizations), through to school sickness absence, GP visits and hospital admissions for accidents and self reported illness and disability in adulthood (Pryor and Rodgers, 2001). A typical study, according to Pryor and Rodgers, (2001) is that of the US National Health Interview Survey on Child Health, which found that 17.5 percent of children from separated families had suffered an accidental injury in the past year compared with 13.4 percent of their peers from intact homes (Dawson, 1991). The National Health Survey (Australian Bureau of Statistics, 1992) conducted in Australia found children with separated parents were less likely than their peers to have received common childhood immunisations (Pryor and Rodgers, 2001). The Terman Life Cycle Study found increased mortality rates in adults who had experienced parental separation as children (Tucker, Friedman, Schwartz, Criqui, Tomlinson-Keasey, Wingard and Martin, 1997), which could suggest that the general pattern of slightly increased risk of poorer physical health and development outcomes for children of parental separation and divorce found by Pryor and Rodgers' (2001) analysis of nine relevant studies, may hold for more serious outcomes such as death.

Parental separation and divorce places children, particularly very young children at greater risk of death. About 25 children are killed by a parent (filicide), each year in Australia, with children under the age of one at greatest risk (Mouzos and Rushforth, 2003). Significantly, the research shows that the most prevalent context detected in the incidences of filicide in Australia and overseas is the result of the actual or impending separation from the other parent (Polk, 1994; Strang, 1996; Wilczynski, 1997; Alder and Polk, 2001; Johnson, 2002; Mouzos and Rushforth, 2003; Johnson, 2005). Of the few studies on the nature of community agency involvement with parents who go on to kill their children following separation and divorce (Saunders, 2004), there is some evidence to suggest a tendency among professionals to minimise or ignore signs of mental illness on the part of the perpetrator in this context (Johnson, 2002; 2005). There is also some evidence to suggest that although professionals might be attuned to the motivations and perceptions of mothers who kill their children (Pearson, 1998), there appears to be a lack of a sufficient knowledge with which to identify and respond to fathers who separate on apparently amicable terms, but are feeling depressed, isolated, or psychotic following the separation, and who kill their child, or children, in this context (Lithwick, 2002; Tyson, 2008). Much of the literature citing separation, alongside a range of other factors such as a prior history of domestic violence (Humphrey, 2007; Humphreys and Stanley, 2006) and child abuse (Brown and Alexander, 2006; Cavanagh, Dobash and Dobash, 2007), as enhancing the risk of further serious assault and the chance of homicide of the woman, has tended to focus on incidences in which the

father's residence status was an issue before the courts. In their analysis of the recent Victorian case of Robert Farquharson, Tyson (2008) and Tyson and Brown (2008) highlight that the context in which the parents separated was by all accounts an amicable one, and the treating professionals who were in a position to recognise a risk to the children failed to recognise, minimised or downplayed that risk. With such serious ramifications there is a need for further knowledge in this area so that children at greatest risk may be identified and their deaths prevented.

For families where domestic violence or child abuse has occurred, separation is a time of heightened risk (Hardesty and Chung, 2006). Although women are encouraged to leave abusive relationships in order to protect their children and themselves, separation is a time of increased risk and vulnerability for women who have been abused, and therefore their children (Hardesty and Chung, 2006). Parental separation and divorce can lead to subsequent child abuse (Brown and Alexander, 2007), as parental separation does not always put a stop to child abuse, as a parent who ends a marriage in order to protect their child might imagine (Hester and Ratford, 1997, cited in Brown and Alexander, 2007). Even more disturbing is the finding that child abuse can occur for the first time after separation, an occurrence more frequent than abuse before separation (Brown et al, 2001). In addition, many of the ramifications of parental separation and divorce, such as lower income levels, reduced physical and mental health, and housing problems, are also factors associated with child abuse (Hiller and Goddard, 1989; Cawson, Wattam, Brooker and Kelly, 2001).

There are an insufficient number of studies of physical health and development to be able to draw conclusions regarding whether specific measures of outcomes in this area reveal greater effects than other measures (Pryor and Rodgers, 2001). With an abundance of studies looking at the effect of parental separation and divorce on the well being of children in other areas, there does seem to be a lack of studies looking at the effect on physical health and development. There is some that is known about the more serious physical health effects of separation and divorce, child abuse and in extreme cases, death. From this research it can be seen that for some children the period post-separation is as dangerous, if not more so, than when their parents were living together.

## **Mental health and well being in adolescence and adulthood**

Children from separated families compared with those from intact families are at higher risk of a host of problematic mental health and well being outcomes including depression, anxiety, aggression, and delinquency (Amato and Keith, 1991), have more emotional problems as adults (Cherlin, Chase-Lansdale and McRae, 1998), and are less satisfied with different social and family related aspects of life (Glenn and Kramer, 1985). There is a body of evidence that the emotional effect of parental divorce on children continues well into adulthood (Amato and Keith, 1991; Chase-Lansdale, Cherlin and Kiernan, 1995; McLeod, 1991; Rodgers, 1994). Both cross-sectional and longitudinal research up to 20 years after parental divorce has shown important differences between children of divorced and intact families in this area (Wauterickx, Gouwy and Bracke, 2006).

In a longitudinal study, Cherlin et al (1998) were the first to prospectively model the longitudinal trajectories of depression among children of divorced and intact families. Their results indicated that parental divorce continued to have a negative effect on emotional well being when participants were aged in their twenties and thirties (Cherlin et al, 1998; also Amato, Loomis and Booth, 1995; Chase-Lansdale et al 1995). In an 11 year longitudinal study, Ge, Natsuaki and Conger (2006) extended the work of Cherlin et al (1998) by making more frequent assessments during adolescence and early adulthood. The five important findings of this study were that depressive symptoms increased during midadolescence and then declined in late adolescence to young adulthood, especially for females; that compared to males, females experienced a greater number of depressive symptoms; that children who had experienced parental divorce by age 15 demonstrated a sharper increase in depressive symptoms; that stressful life events children experienced shortly after parental divorce mediated the effect of parental divorce on depressive symptoms; and finally that stressful life events, particularly those related to relationship and personal loss, were significantly associated with the trajectories of depressive symptoms (Ge et al, 2006).

Attention has been devoted to possible explanations for these long-term consequences, and mediating factors, which appear to have a clear influence on emotional problems in adulthood (Amato and Sobolewski 2001; McLeod 1991; Ross and Mirowsky, 1999). Work which emphasised the mediating effect of economic and relational characteristics on the relation between parent divorce and depression was conducted by Ross and Mirowsky (1999). In this work Ross and Mirowsky (1999) showed that the total effect of a parental divorce appears to be influenced by low socio-economic status and problems in interpersonal relationships, which is in agreement with the life course perspective (Wauterickx, Gouwy and Bracke, 2006). Building on this research, Amato and Sobolewski (2001) showed not two but three mediating paths; socio-economic status (education and income), instability in relationships (marital status and previous marital history) and the quality of the parent child relationship (bonding with the mother and the father). Such results, showing that the detrimental effect of divorce is mediated by the stressful events occurring around the time of the divorce, suggest that it is these secondary stressors triggered by parental divorce, not the event of parental divorce itself, that put individuals at heightened risk of developing depressive symptoms over time (Ge et al, 2006; Aseltine, 1996; McLanahan and Booth, 1989).

## **Family and intimate relationships in adolescence and adulthood**

The findings of Pryor and Rodgers' (2001) analysis of 19 studies relating to family and intimate relationships in adolescence and early adulthood between 1961 and 1999 were that the effect sizes for related outcomes were larger than for all of the previous areas covered, indicating a significant difference in outcomes for children of parental divorcee compared to children from intact homes. Measured outcomes included teenage birth, pre-marital pregnancy and pre-marital fathering, left home by 18 years, sex before 17 years, never married, marital happiness, marital problems and own divorce or separation, amongst many others. Typical findings include McLanahan and Sandefur's (1994) study which found 13 percent of women from divorced families of origin had a birth outside marriage compared with five percent of women from intact original families (Pryor and Rodges, 2001).

Also The UK National Survey of Sexual Attitudes and Lifestyles (Kiernan and Hobcraft, 1977) found that 15 percent of men who from divorced families had their first child before the age of 22, compared with eight percent of men who had not experienced parental divorce (Pryor and Rodgers, 2001). Looking across the outcome measures, the effect sizes were larger for having children at a younger age than for entering partnerships (including marriage) at an early age, or for self reported quality of marital relationships, with the largest effect sizes being for own divorce in adulthood (Pryor and Rodgers, 2001). These studies showed similar effect sizes over different cohorts, different countries, and for males and females (Pryor and Rodgers, 2001).

Several very recent studies have focussed on family and intimate relationships in adulthood of individuals who experienced the divorce of their parents as children. Ahrons (2007) investigated the long-term implications for family ties of children whose parents had divorced by interviewing grown children twenty years after their parents' divorce, and found that the parental divorce continued to impact on the family system into adulthood by exerting a strong influence on the quality of family relationships. Most of the children experienced remarriage of one or both parents over the course of twenty years, and one third of these remembered the remarriage as more stressful than the divorce (Ahrons, 2007). Of those who experienced the remarriage of both parents two thirds reported that their father's remarriage was more stressful than their mother's (Ahrons, 2007). Also, when children's relationships with their father deteriorated after divorce, their relationships with their paternal grandparents, stepmother and step siblings were distant, negative or non-existent (Ahrons, 2007).

In another recent study, Sobolewski and Amato (2007) assessed the associations between parents' marital discord and divorce, patterns of parent-child relationships, and adult children's subjective well being. They found that parental divorce and marital conflict appeared to increase the odds that children were close to neither parent in adulthood, that parental divorce (but not marital conflict) appeared to increase the odds that children were close to one parent only, and that children had the highest level of well being as adults when they grew up in a low conflict married family and were close to both parents (Sobolewski and Amato, 2007).

A related area is that of the influence of parental divorce on the attitudes of adults towards their own intimate relationships and the circumstances surrounding these, such as co-habitation prior to marriage. In a study investigating the direct and indirect influences of parental divorce on adult children's attitudes towards co-habitation, Cunningham and Thornton (2007) found that parental divorce during childhood increased children's support for cohabitation at age 18 (but this influence wanes as the children age beyond adolescence), and the influence is greatest when the parent's divorce is followed by remarriage. The proposed influence of the parental divorce is partially transmitted by parents' attitudes about cohabitation, parents and children's religious involvement and children's sexual behaviour during adolescence (Cunningham and Thornton, 2007).

With respect of family and intimate relationships, researchers from a variety of disciplines agree that children with divorced parents have an increased risk of encountering a variety of problems in early adulthood, including weak ties with parents and relationship instability

(Amato and Booth, 1997; Sobolewski and Amato, 2007; Wallerstein and Kelly, 1980; Hetherington, 2003; Hetherington and Kelly, 2002; Ahrons, 1994, 2001, 2007). It goes without saying that for many children (approximately 80 percent) who experience parental divorce the immediate distress surrounding parental separation fades and these children do not go on to develop serious problems in adulthood (Wallerstein and Kelly, 1980; Hetherington, 2003; Hetherington and Kelly, 2002; Ahrons, 1994, 2001, 2007). However the finding that divorce presents certain risks and continues to affect children into adulthood has been replicated so frequently (and by the same researchers) that additional research on the processes that link parents' marital distress and their children's long-term outcomes is clearly warranted (Sobolewski and Amato, 2007).

## **Economic functioning**

Financial arrangements have an important impact on the economic and social well-being of family members post-separation. Money can be a central issue before, during and after a divorce, and while money itself may not be the basis for the bitterness and conflict, it may become the battleground (Haugen, 2005). There have been several studies that have addressed the significance of money in understanding the impact on children of divorce, that show that the divorce of their parents leads to a loss of economic resources for children (Amato, 1993; McLanahan and Sandefur, 1994; Coleman, 1990; Wallerstein et al, 2000). Economic hardship following parental separation and divorce has been associated with negative outcomes for children (Aseeltine, 1996; McLanahan and Sandefur, 1994; Morrison and Cherin, 1995), and according to Emery (1999), the economic resources of a family have been found to explain considerable variance in behavioural problems of children whose parents have divorced. Recent work suggests that besides parental conflict it is the economic fallout from divorce that drives many of the negative consequences of divorce for children (Smyth and Weston, 2000). Importantly, as with many of the settlement decisions made by parents in the process of divorce, children rarely play an active role in financial decisions, although these decisions clearly affect their lives (Haugen, 2005).

With the new family law legislation in Australia emphasising shared parental responsibility, and the possibility of substantial care and high contact costs reducing liability under the Child Support Scheme, it is likely that property will be more evenly divided, the fathers' child support liability will be reduced and spousal maintenance may become even rarer (Fehlberg, 2008). More separated parents are entering shared time arrangements (McIntosh and Long, 2007), but shared care arrangements often do not last in the longer term, with longitudinal data suggesting the relative fragility of shared time arrangements, with the tendency over time being for children to eventually live with one parent, usually their mother (Juby, Marcil-Gratton and Le Bourdais, 2005; Smyth, Weston, Moloney, Richardson and Temple, 2008). The implications of such issues have been studied by Belinda Fehlberg of Melbourne University Law School, in her research considering the impact of changes in shared care over time on financial decisions made at separation. Her findings, which are yet to be published, hope to enable separating couples, their advisers and courts to make financial settlements which reduce the potentially adverse financial and social impacts of post-separation financial arrangements on children, carers, and the social security system (Fehlberg, 2008).

In interviews with children from post-divorce families Haugen (2005) found that children had observed and thought about their parents' negotiations of child support, that children were also concerned about their own money, and some even had an economic position autonomous from that of their parents. According to Haugen (2005) researches who study the effects of divorce on children have not paid much attention to how children themselves understand and explore questions of money, a gap in the literature to date.

## **PART TWO: Additional areas of interest**

The following areas of research into the well being of children following separation and divorce are also relevant to the proposed research areas of the consortium.

### **The participation of children in research and children's views about their involvement in decision-making following parental separation**

A considerable body of research now exists on children's participation in research, arguing for greater involvement of children and young people in decisions that affect them (Alderson, 2000; Hill, Davis, Prout and Tisdall, 2004; Marchant and Kirby, 2004; Shier, 2001; Sinclair, 2004; Stafford, Laybourn and Hill, 2003; Campbell, 2008a). A number of shortcomings in empirical research on children have also been highlighted, including a predominant emphasis on children as objects rather than as subjects of research studies, on findings that describe outcomes rather than processes in children's lives and on research that prioritises variables rather than persons (Green and Hill, 2005). Nevertheless, the nature of the involvement of children in research is changing, according to how childhood is viewed in society (Powell and Smith, 2009). As a result of recent theoretical developments in the study of childhood, children are less likely to be viewed merely as objects of the enquiry and more as active participants in the research process (Powell and Smith, 2009). Importantly, children's participation in research can enhance children's skills and self-esteem, support better decision-making and protection of children and improve policies for children (Mayall, 1999; Sinclair, 2004). Research in such areas has brought to light two very important issues. One is the actual views of children about their own involvement in the decisions parents make about them following separation and divorce, and the other is the experiences of researchers, particularly problems they encountered, in obtaining ethical approval and subsequently recruiting children for this type of research in the area of family law. These two issues will be addressed in turn.

Robinson, Butler, Scanlan, Douglas and Murch (2003) suggest that children are not passive witnesses to the divorce of their parents, but instead are involved, creative and resourceful participants. Cashmore (2003) summarises three key messages from research on the actual views and perspectives of children on the divorce of their parents. First is that children generally wish to be kept informed of what is happening in their changing family context; second, that children wish to be included in some aspects of decision-making post-separation and to have their views and perspectives considered; and third, that children desire to have workable and flexible arrangements in their contact with their parents after the separation (Cashmore, 2003). Children are often kept unaware of the details of their changing family context by parents who wish to protect them from stress and anxiety (Dunn and Deater-Deckard, 2001; Gollop, Taylor and Smith, 2000). Australian and New Zealand Researchers also emphasise the need to place children at the centre of research on their experiences of the process of separation and divorce (Parkinson, Cashmore and Single, 2005; Smith and Taylor, 2003; Taylor, 2005; Campbell, 2008a, Bagshaw, 2007).

In recent Australian research that directly sought the views of children about their involvement in decision-making processes following their parents' separation, Campbell (2008a) found that children need information from their parents about what is happening at the time of separation; that children expressed a belief that their opinions should be respected and acted upon, (but that final decision should be made by parents); and that children recognised the importance of members of the extended family in helping parents make important decisions about their children. These findings, which reflect those of others in the UK and New Zealand, emphasise the importance of children being included in the experience of parental separation, and that such inclusion will ensure their best interests are the central focus of decisions made about them (Campbell, 2008a).

Recruiting children to participate in research is a difficult stage of the research process because researchers' access to children is tightly controlled (Alderson, 2004; Sinclair, 2004; Campbell, 2008b). Children cannot be approached directly and their participation is controlled by a series of gatekeepers including ethics committees, organisations, professionals, parents, caregivers and teachers (Butler and Williamson, 1994; Hood, Kelly and Mayall, 1996; Campbell, 2008b). In a New Zealand exploration of children's participation in research from the perspectives of researchers who have conducted research with children, Powell and Smith (2009) found that children's participation rights are particularly compromised when the potential child participants are considered vulnerable and the topic of the research is regarded sensitive, as divorce and separation is. The problems in recruiting child participants for his research led Campbell (2008b: 45) to the proposition that "if we are to advance the social position of children as participants in decisions that directly affect them, we need to consider ways and means for facilitating their participation". The research suggests that while it can be very difficult to plan and implement research that directly involves children on the sensitive issue of parental divorce and separation, obstacles can be overcome with creativity and flexibility in research design.

## **Involving children in family law processes**

In Australia there has been an interest in building effective child-centred practices in family law, informed by both the United Nations (1989) Convention on the Rights of the Child and the changes to the Australian Family Law Reform Act 1995 that have attempted to position children as individuals in their own right and to ensure that children's 'best interests' are addressed (Campbell, 2008a). Australia, as a signatory to the United Nations Convention on the Rights of the Child, acknowledges that children have a right to express their views and should have an opportunity to be heard in processes that affect them (Fernando 2009). In determining what is in a child's best interests, the child's views are explicitly recognised in the legislation and case law also has recognised that children's views are important and should be given proper and realistic weight (Fernando 2009). According to Campbell (2008a), work such as that of Mackay (2001) and McIntosh (2000) indicate the high degree of both professional and governmental interest in promoting the best interests of children through their direct involvement in decision-making processes following parental separation. Since the introduction of the Family Law Reform Act 1995 and the Family Law Amendment (Shared Parental Responsibility) Act 2006 there has been increased pressure on the socio-

legal service system to directly involve children in family law matters that affect them (Bagshaw, 2007). Fernando (2009) writes that despite the extensive law reforms “there has been no significant change to the extent to which children are involved in contested court proceedings” (p.12). The extent to which change has occurred across the system is the subject of debate.

There is considerable debate about how much to involve children in formal decision-making processes following parental separation and divorce, and the literature describes two types of child responsive practice. Child-focussed interventions “follow processes and reach conclusions that are in each child’s interests” (Webb and Maloney, 2003, p.32), such that parents are helped to focus on the needs of their children and make decisions which reflect these interests, but where the child is not actually present. Child-inclusive practice is when the child is consulted in a developmentally appropriate way about their views and these views, together with the child’s needs are taken into account in decision making (Maloney and McIntosh, 2004). Maloney and McIntosh (2004) argue that in the very least, child-focussed practice should be the minimum yardstick against which family dispute resolution practice is measured and that where possible, child-inclusive practice should be used (McIntosh, Long and Maloney, 2004). Chisholm (1999) notes that it is easy to overlook the importance of consulting children and “failing to do so can be very distressing to children, and a violation of their rights” (p.9).

In her interviews of 117 family law stakeholders (including lawyers, Family Dispute Resolution [FDR] practitioners, judicial officers and self-represented litigants), Banks (2009) found that both lawyers and FDR practitioners (mediators and counsellors) shared a commitment to being child-focussed but that just as there are a range of different stakeholders in the family law system, there are also different views of what it means to be child-focussed. Banks’ (2009) research showed there are clear constraints on achieving a universal ideal of child-focussed practice because of the variety of roles, perspectives and expectations of those stakeholders. Lawyers felt most constrained by their ethical duties, and believed they often conducted a fine balancing act in order to be child focussed (Banks, 2007; Banks 2009). FDR practitioners felt pressured by their new legal obligations to advise parents about the presumption of equal shared parenting, and felt compromised professionally because of lack of legal knowledge (Banks, 2009). Banks (2009) suggests that further research into the respective professional development needs of different professional groups may assist in developing strategies to overcome the challenges so that practitioners may work toward more consistent child-focussed outcomes.

A small number of children are involved in family law proceedings through the practice of judicial conferencing. In a discussion about the infrequent practice of judges speaking directly with children, Fernando (2009) argues that ‘judicial conferencing’ allows children’s views to be presented to the court without being filtered by a third party and that this allows children to be empowered in a situation where they otherwise have very little control. The practice of judicial conferencing only occurs in a very small proportion of the already comparatively small number of cases that are heard in the Family Court. For cases where parents are unable to come to an agreement about the care of their children following separation and divorce and the matter proceeds to court, the court is obliged to take children’s views into account in any decision concerning them. The court utilises a number of

ways in which judges can obtain children's views; by family report, through the use of an independent children's lawyer, or, less frequently, by speaking directly with them. Fernando (2009) argues that judicial conferencing gives the child a voice in decision-making which not only empowers the child but also leads to more informed decisions that are more likely to be in the child's best interests.

## **Services to help children**

There has been a large body of research which has attempted to identify key issues in service provision and support for children and families experiencing separation and divorce (Fawcett, 2000; Pryor and Rodgers, 2001; Rodgers and Pryor, 1998; Smart et al, 2001). A study by Hawthorn, Jessop, Pryor and Richards, (2003) suggested that of particular importance were the needs to facilitate communication between children and their parents, help children understand what is happening, and facilitate networks for support for children including links with school and community. Kelly (2002) emphasised the importance of adopting a systemic view in planning interventions with children and families, which includes the family and the broader social and legal systems. Kelly and Emery (2003) state that the services need to be tailored to the needs of the individual child and should prioritise the following; the promotion of close relationships between parents and children, the enhancement of economic stability post separation, minimising parental conflict, and involving children in interventions, where appropriate, so that they may have a voice in decisions about them.

Although a number of studies have explored support for children following parental divorce, Halpenny, Greene and Hogan (2008) argue that in order to gain more precise insight into the mechanisms through which children can best be supported, it is necessary to consult children themselves. Their study, conducted in Northern Ireland, involving in-depth interviews with sixty children highlighted the importance for children of being selective about whom they seek and accept support from, with the family being the preferred source of support (Halpenny et al, 2008). Also of importance was the need to provide a broad range of services outside agencies in a non-stigmatising way and at various stages throughout the separation process (Halpenny et al, 2008). In his Australian research, Campbell (2008a) noted that comments from children indicated their support for the concept of family group conferencing with the inclusion of family and friends. Campbell (2008a) also noted the importance of the Family Relationship Centres in Australia in the potential to develop innovative approaches that build on current child-centred practices in order to increase current understanding of how to work more effectively with children. In other Australian research, Bagshaw (2007) conducted anonymous telephone interviews with 19 children who had been through the experience of parental separation and found that despite the increased policy and legislative focus on children during separation, there remains a tendency for services and parents to overlook the needs of children.

Although researchers and service providers continue to emphasise children's right to be involved in decisions that concern them, and argue that children have the capacity to act as agents in their own lives, in reality few support services manage to successfully incorporate these ideals into current provision (Hawthorn et al, 2003). In a UK study, Fawcett (2000)

draws attention to the problem of the majority of support services having been adult focussed and that child-centred services are typically not prioritised until excesses of behaviour bring children to the attention of social workers or child guidance clinics. Added to this issue and of great concern is research showing that some service systems contribute to the social exclusion of these children by discounting their experiences of being a member of a family where parents are separated or divorced and by not integrating this experience into their service provision. The services appear not to have adapted to the needs, even at a simple level, of children living in families where parental separation and divorce have taken place (Brown, Frederico, Hewitt and Sheehan, 1998, 2001; Higgins, 2007; Brown, Lundgren and Stevens, 2008). Research has shown that there are too few services designed for children experiencing parental separation and divorce, and that if children are Indigenous, from rural areas, from migrant, refugee and non English speaking backgrounds, or because their parents are in a same sex relationship, they are even more disadvantaged in the area of service provision (Australian Law Reform Commission & Human Rights and Equal Opportunity Commission, 1997; McIntosh, 2000; Bagshaw and Chung, 2000; Bagshaw et al, 2000).

## **Family violence as a cause of separation**

There is a complex relationship between family violence and separation and divorce, and the complexity only deepens when issues of child custody and contact arrangements post separation are also considered. It is known that both child abuse and intimate partner violence are reasons why some parents separate (Kurz, 1996; Bagshaw and Chung, 2001), and that for many couples both types of violence have occurred at the same time (Brown et al, 1998, 2001). It is also known that separation doesn't always stop the violence and the risk of children being exposed to domestic violence, including homicide, increases markedly at the time of separation (Bagshaw and Chung, 2001; Laing, 2000). Women who share children with their abuser are likely to have ongoing contact, presenting opportunities for further abuse, making them particularly vulnerable to post-separation violence (Hardesty and Chung, 2006). Some of the complexity of the relationship between a mother, her children and an abusive partner is described by Varcoe and Irwin (2004: p.79):

*Beginning before pregnancy with reproductive decision-making (Campbell et al, 1995; Goodwin et al, 2000), continuing into pregnancy (Johnson, 1996; Torres et. al. 2000), and extending throughout the life of the child, women who are abused must remain connected to abusive partners, and mothering is an area in which abusive partners can exert power and control (Hardesty, 2002; J. McFarlane et al, 1999).*

Women who are abused actively make decisions about their lives and concern for their children influences these decisions (Henderson 1990; Hilton, 1992; Humphreys 1995a, 1995b; Irwin, Thorne and Varcoe, 2002), with such studies illustrating that women both stay in and leave relationships partly because of what they believe to be best for their children (Varcoe and Irwin, 2004). Some parents regard domestic violence as child abuse (Brown and Alexander, 2007), and there is much research showing that intimate partner violence also affects children, whether or not the children are the direct targets of physical or sexual abuse (Bennet 1991; Ericken and Henderson 1992; Henderson 1990, 1993; Hennings et al, 1997; Hughes, 1998; Jaffe et al, 1986; Jaffe, Wolfe and Wilson 1990; Jouriles, Barling and

O'Leary, 1987; Kolbo, 1996; Peled, Jaffe and Edelson, 1995), cited in Varcoe and Irwin (2004). Laing (2000) explains that domestic violence towards mothers also involves children, who may be affected in numerous ways. This can include as direct targets, as secondary victims of violence, or by injury sustained trying to protect their mothers (Laing, 2000). According to Brown and Alexander (1997), separating parents tend to cite only one form of family violence as a cause of separation, while simultaneously referring to the existence of other forms (Brown et al, 1998; Brown et al, 2001); a simplification of family violence which is perhaps encouraged by the family law legal system. Research indicates that in families where there is intimate partner violence, child abuse is also likely to occur in 70 per cent of cases (Bowker, Arbitell and McFerron, 1998; Edelson, 1999; Strak and Flintcraft, 1991).

Evidence suggests that women who have been victims of domestic violence experience many of the same challenges as divorced parents in general as they negotiate new roles following divorce, however these challenges are compounded by continuing violence, threats and concerns about their own and their children's safety (Hardesty and Chung, 2006). In an Australian study, McInnes (2004) found that in the context of separation, violence against mothers and children by men significantly increased both the immediate and longer term parenting needs of the children. The mothers in her study, who had all left violent relationships and were adapting to living in a single parent household, had continuing concerns about their children's behaviour; including withdrawal, anxiety and aggression, and the children's continued exposure to violence during contact with their father (McInnes, 2004). According to McInnes (2004) mothers who leave violent relationships have to contend not only with the impact on their parenting of the violence against themselves, but also the consequences of the children's exposure to violence. In addition, and very disturbing is research that shows that perpetrators of domestic violence continue to exercise power and control over their ex partners and children through ongoing litigation over parenting (Jaffe, Lemon and Poisson, 2003), and that they use tactical strategies to manipulate the Courts pro-contact decisions (Kaspiew, 2001). According to Shea Hart and Bagshaw (2008) feminist research in Australia consistently supports concerns about the current pro-contact orthodoxy within family law in Australia which can take priority over the child's legislative right to safety (Kaye, Stubbs and Tolmie 2003; Rhoades, 2000).

In the Australian Institute of Family Studies report, *Allegations of Family Violence and Child Abuse in Family Law Children's Proceedings: A Pre-reform Study*, Moloney, Smyth, Weston, Richardson, Qu and Gray (2007) confirm that finding effective ways to deal with family violence is a key challenge for family law system professionals. The report showed that decision making in parenting cases involving violence under the previous family law framework largely occurred in the absence of facts, due to the tendency for cases with allegations of violence to be made with little supporting evidence (Moloney et al., 2007). Although allegations of violence were common and often serious, they were not dealt with effectively and appeared to have minimal impact on court sanctioned parenting outcomes (Moloney et al., 2007). In an in-depth discourse analysis of 20 unpublished judgements from one registry of the Family Court of Australia, Shea Hart and Bagshaw (2008) showed that many "judicial determinations about children's 'best interests' were underpinned by conservative values that emphasised the importance of the father's presence for children's future wellbeing and development" (p.291). In many of the contested contact cases where

domestic violence was acknowledged by the court that they analysed, Shea Hart and Bagshaw (2008) found that the father's prior history of domestic violence was "readily excused or ignored, mothers were blamed for failing to support father-child contact, the voices of children involved were often discounted and a dominant paradigm of the idealised post-separation family took precedence over the special needs of the children" (p.291).

The extent to which problems of the volume of family violence allegations and the question of how to respond to them have persisted into the Australian post-reform environment is unclear. In some recent research, Banks (2009) found that FDR practitioners were concerned about how family violence was being dealt with since the new law reforms. They questioned whether the reforms might exacerbate the danger to some victims of violence and abuse and also raised concerns about whether safeguards for identifying violence were adequate (Banks, 2009). These and other concerns about the handling of family disputes in the context of family violence are the subject of current Australian research funded by the Australian Government Attorney-General's Department.

## **Parental remarriage**

The number of negative life events to which children are exposed is a consistent predictor of children's divorce adjustment (Amato, 2000). For many children one of these negative life events can be the remarriage of one or both of their parents. Research has shown that additional stressors for children following parental separation include; changes in family structure, such as the remarriage of one or both parents and dealing with step-parents and step-siblings (Amato, 2000; Emery, 1999; Hetherington et al.,1989). Parental remarriage also makes it possible for children to experience multiple parental divorces and conflict (Amato and Sobolewski, 2001). There has been much research indicating that parental remarriage may have negative effects on many children (Blibarz and Raftery, 1999; Case, Lin and McLanahan, 2001; Griesbach, Amos and Currie, 2003; Hetherington 1999, Zill 1994; Zill and Nord, 1994).

Jeynes (2006) notes that although there have been recent advances in the study of stepfamilies, research on stepfamilies has lagged considerably behind that of parental separation and divorce and is still a new area of study (Ganong and Coleman, 1994; Booth and Dunn, 1994; Jeynes, 2002). According to Jeynes (2006: 77), there are two schools of thought about the influences on children of parental remarriage, with the first being those who focus on parental remarriage as a difficult transition for children, and that children "must expend a certain degree of energy and social capital in order to adjust to the transition"; and the second who argue that children are "very resilient and able to adapt in the midst of challenging circumstances". In an attempt to address this issue, Jeynes (2006) conducted a meta-analysis of 61 studies to determine the impact of parental remarriage in two areas, that of academic achievement and psychological well being. The analysis found that children from remarried families achieved lower academic levels than children from intact families, and children from corresponding single-parent families; and that children from remarried families also showed lower levels of psychological well being when compared to children from intact families (Jeynes, 2006).

An issue being tackled by a growing body of researchers is the differential parenting of siblings, both in two-parent intact families and in stepfamilies (Wallerstein and Lewis, 2007). It is thought that siblings in two-parent families are at risk of disparate parenting, especially when there are stressful circumstances, including marital tension and financial difficulties (Jenkins, Rashbash and O'Connor, 2003; Plomin and Daniels, 1987). Research also suggests that biological relatedness of parents or step-parents to one or more of the siblings is significantly linked to differential parenting, which usually disadvantages the stepchildren (Brand, Clingenspiet and Bowen-Woodward, 1988; Henderson and Taylor, 1999; Hetherington, Henderson and Reiss, 1999). It is known that children who are treated negatively or marginalised in their own families by their parents fall significantly behind their siblings in their psychological adjustment (Conger and Conger, 1994; Feinberg and Hetherington, 2001; McGuire, Dunn and Plomin, 1995). In the first longitudinal study of its kind, Wallerstein and Lewis (2007) investigated parent-child and step-parent-child relationships with siblings over ten years in post-divorce families. Their findings show widely discrepant psychological adjustment among siblings along with disparate relationships with parents and step-parents in half of the 60 US families studied, 10 years after divorce that were not evident immediately after the divorce (Wallerstein and Lewis, 2007). Findings such as these have implications for the treatment of families by the courts at the time of divorce, as this instability in parent-child relationships after parental remarriage "challenges the view of divorce as an acute time-limited crisis for children", and court decisions that assume parent-child relationships at divorce will remain unchanged in the years that follow (Wallerstein and Lewis, 2007: 224).

It is clear that parental remarriage is a challenging experience and transition for children, but that their resiliency allows them to adapt in difficult circumstances (Hetherington, 1999). The question is which school of thought describes the average experience from a child's perspective, and how can the needs of these children best be met. It is an area that warrants further research, particularly in Australia.

### **Children's contact with grandparents after divorce**

The issue of grandparents' visitation 'rights' following the separation or divorce of their grandchildren's parents has gained more attention in very recent times in Australia. Although the issues of grandparents raising grandchildren and visitation rights of grandparents after separation have been the subjects of much research overseas, particularly in the US, the same cannot be said for Australia. The issues faced by grandparents gained some recognition following the parliamentary enquiry into 'joint custody' in Australia in 2003 (Commonwealth of Australia, 2003). As a result of the enquiry, two relevant recommendations were made in relation to grandparents. Under Recommendation 24, the Commonwealth Government:

*"should ensure contacts with grandparents and extended family members are considered by parents when developing their parenting plan, and if in the best interest of the child, make specific plans for contact with those individuals in the parenting plan; and develop a range of strategies to ensure that grandparents, and extended family members, are included in mediation and family counselling activities"*

*when it is in the best interest of the child, in particular the development of a wider family conferencing model.” (Commonwealth of Australia, 2003).*

Since this time the changes to the Family Law Amendment (Shared Parental Responsibility) Act 2006 have changed the way the majority of parents make decisions about the post separation care of their children, with Family Relationship Centres providing mediation in order for parents to prepare and agree on parenting plans. It remains to be seen how this new process has affected grandparents in Australia, with some recent funding by the Australian Attorney-General’s Department allocated to research in this area. Ferguson (2004) asks the pertinent question, “*why is grandparenting a significant role and what (if any) responsibilities and privileges should accompany the achievement of grandparenthood (p.36)?*” In order to gain some insight, this question can be addressed by looking at some Australian and international literature.

In her work on the changing role of grandparents in Australia, Ochiltree (2006) identifies the concerns and issues faced by grandparents in trying to maintain relationships with grandchildren whose parents have separated or divorced. Ochiltree (2006) explains that when their children experience separation or divorce, grandparents not only experience distress because of their own child's situation but are also concerned about the effects on their grandchildren, and may also worry about their grandchildren well before the separation if they see signs of difficulty in the parents' relationship. Grandparents may try to provide assistance to the family at the time of the separation as they attempt to adjust to the new family circumstances, which could include providing additional support, comfort and continuity for their own child as well as their grandchildren (Ochiltree, 2006).

The research suggests that grandparents can play an important role in the lives of both their children and grandchildren following divorce (Weston 1992). Ochiltree (2006) reports that some family relationships become closer in the vulnerable time after separation and divorce, especially between grandparents and their own child. Other international studies have shown that grandparents are an important source of help, advice and support for parents and grandchildren and play a vital role following the loss of a parent through divorce (McLanahan and Booth, 1989; Johnson, 1995, 1998). Thompson (1999: 471) suggests that grandparents act “as practical everyday carers, as emotional anchors, firm but gentle child rearers, as models for achievement, as listeners, and as transmitters of crucial information” (cited in Ferguson, 2004).

According to one of its authors, The *Grandparenting in Divorced Families* study, conducted in the UK provides two pieces of evidence that are relevant to the Australian discussion of grandparenting after divorce, particularly in relation to the recommendations of the parliamentary enquiry mentioned at the beginning of this section (Ferguson, 2004). The first of these is the evidence about the nature of grandparenting and the variety of interpretations of this role, and the second is the observation that although there was evidence of warm and loving relationships most grandchildren did not want to discuss the separation of their parents with their grandparents (Ferguson, 2004). The study of three generations in 44 divorced families identified four grandparent relationship patterns:

- *grandparents who had been very involved with their grandchildren before the separation and became surrogate parents after;*

- *grandparents who saw their priority as their own adult child rather than the grandchildren and often ignored the grandchildren;*
- *grandparents who had strong ongoing negative feelings about the former partner which did not lessen with time. These grandparents often had to be reminded not to express these opinions in front of the grandchildren. In contrast non-partisan grandparents tried to continue their relationship with the former partner either because of a good relationship or in order to facilitate contact with their grandchildren; and*
- *grandparents who were in the reluctant or enthusiastic dichotomy. Reluctant grandparents minimised their grandparent role for one reason or another and these attitudes usually pre-dated the separation and divorce of the parents; some were not good with children and although their child may have wished for them to take a greater role they remained reluctant. Enthusiastic grandparents, on the other hand, were confident and devoted both before and after divorce of the parents (cited in Ochiltree, 2006, p.6).*

As a result of the study, Ferguson (2004) is of the opinion that the two practical interventions of the need to consider grandparents in parenting plans, and family counselling and conferencing, will help to foster ongoing contact between grandparents and grandchildren following divorce.

It is common that following separation and divorce some relationships may cease entirely, for example, between grandparents and their in-law child, and when this happens grandparents may lose touch with their grandchildren or see them far less often (Ochiltree 2006). Sometimes hostilities exist that make it impossible for the grandparents to see their grandchildren and as a result of divorce some grandparents, usually paternal, may lose contact with their grandchildren, or what contact they have may be intermittent or tenuous (Ochiltree, 2006). In an Australia study of contact with grandchildren, Weston (1992) found that children living with their mother were more likely to have regular contact with their maternal grandparents than paternal grandparents, and the reverse was true if children were living with their father. Weston's (1992) research found that the residency arrangements of the family had the greatest influence on which side of the family has more contact with the grandchildren, and subsequently becomes more important in their lives. According to Ochiltree (2006), although the amount of contact with grandparents may become less over time, total loss of contact is rare.

In most divorced families, the family works out contact with the grandparents informally (Ochiltree, 2006), and the contact is negotiated, maintained or diminished without reference to the possible legal position (Ferguson, 2004). Questions remain about whether or not policy makers should require parents to allow grandparents contact unless there are good reasons why such contact would not be in the child's best interests, and whether or not grandparents should have to resort to legal proceedings to re-establish contact with their own grandchildren (Ferguson, 2004). Hetherington (2003b) explains that in Australia a grandparent is entitled to bring an application to the Court in relation to the parenting of a child, but that there is no guarantee that they will obtain an Order for contact and that grandparents have to establish to the Court that it is in the best interests of the child for an Order to be made for them to have contact. Those lobbying for grandparents to have

express rights argue that grandparents deserve recognition that they are in a special position regarding their grandchildren which should be reflected by the law, giving them automatic rights to contact and to seek care (Ferguson, 2004). The other side of the argument as Hetherington (2003b) explains is that it may not always be in the interests of any given child to share already shortened time periods between not just the two parents but the grandparents as well, by Court Order. The best interests of the child may be better served if both parents and grandparents approach contact in more creative and flexible ways, rather than assuming that contact should be along similar lines to that enjoyed by a parent (Hetherington, 2003b).

### **Threats to children's interests as a result of the change in legislation**

There is growing concern amongst professionals in the socio-legal service system that the law reforms in Australia have brought about new threats to the best interests of children in family law disputes. Five areas of concern have been identified; restrictions on the relocation of parents, the concept of equal responsibility, the template for equal time, issues of family violence, and the new Child Support Agency formulae. The gathering of information and the conducting of research in these areas of concern is crucial to any assessment and consideration of the impact of the family law reforms in Australia.

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