This edition of *Family Matters* focuses on one of the most fundamental yet complex aspects of human experience – family relationships. The articles in this edition demonstrate this complexity in some depth in presenting research on a range of different relationship issues, including family violence, stepfamilies and parent–child relationships.

The social and demographic backdrop to such research is an environment where the concept of family and the meaning of family relationships have been undergoing significant changes. The proportion of families that fit the ‘standard’ configuration of a couple with children has decreased from 48.4 per cent in 1976 to 37 per cent in 2006. The decrease in this family type is matched by a steady increase in couple-only families (37.2 per cent in 2006, compared with 28 per cent in 1976) and one-parent families with dependent children (10.7 per cent in 2006 compared with 6.5 per cent in 1976). Another significant trend is an increase in the proportion of cohabiting couples with de facto relationships now representing 15 per cent of all people in couple relationships, compared with 6 per cent in 1986 (all data from Weston & Qu, 2007). These developments suggest increasing complexity in the meaning of ‘family’ and pose significant challenges for formulating policy across a range of areas, including law.

**Family relationships and the new family law system**

Over the past three decades, significant legal changes have been the companions of the social and demographic shifts outlined in the preceding paragraph. Most recently, the *Family Law Act 1975* (Cth) has undergone reform through the enactment of the *Family Law Amendment (Shared Parental Responsibility) Act 2006* (Cth), which has strengthened legislative support for shared parenting after separation and given increased prominence to the need to protect children from exposure to abuse, neglect and family violence. It has also introduced compulsory family dispute resolution for most disputes over parenting arrangements. A key aim of these changes is to ensure that
family relationships – especially those between parents and children, and grandparents and grandchildren – can be sustained despite changes in couple relationships, as long as it is safe to do so, with the overarching intention to strengthen family relationships. In the case of children from Aboriginal and Torres Strait Islander communities, the legislation recognises the need to maintain a wider range of familial and cultural connections.

A number of the articles in this edition address issues relevant to the new family law environment. Among the more difficult questions is that of family violence. Increasingly, family violence is being recognised as a factor in relationship breakdown (e.g. Sheehan & Smyth, 2000), an issue that impinges on parenting capacity (Edleson & Williams, 2007) and a potential predictor of child abuse (e.g. Tomison, 2000). A 2004 report by Access Economics estimated that family violence cost the Australian economy $8.1 billion in the 2002–2003 financial year, with about half of that cost being borne directly by the victims.

In the context of post-separation disputes over parenting arrangements, a history of family violence has a range of implications, including whether a family dispute resolution-based pathway is the most appropriate one, and how such a history should be taken into account in determining parenting arrangements. In a context where there are multiple potential pathways for parenting disputes, including having family dispute resolution available from many different providers and two different court systems – the Federal Magistrates Court and the Family Court of Australia (which has a special pathway for cases involving child abuse) – the identification and assessment of cases involving family violence are crucial to ensure they are dealt with in the most appropriate forum.

Landmark research featured in this edition, the Australian Institute of Family Studies Allegations of Family Violence and Child Abuse in Family Law Children’s Proceedings report, provides an empirical basis for starting to untangle some of the issues surrounding allegations of family violence and disputes over post-separation parenting arrangements. The report examined 300 Federal Magistrates Court and Family Court of Australia files in parenting matters that concluded in 2003, and provides the best empirical data we have had to date on the issue. It found that allegations of family violence (most often falling into the ‘severe’ category) were present in more than half the files across the sample, but were supported by firm evidence in a much smaller proportion of cases. It was only in this smaller proportion of cases that the allegation appeared to have an effect on the type of parenting arrangement made.

In view of the significance of the issues raised, Family Matters invited relevant organisations to submit responses considering how future practice could better address such allegations. The invitation was accepted by the Family Court of Australia (FCoA), the Federal Magistrates Court (FMC), Relationships Australia (RA), and the Domestic Violence and Incest Resource Centre (DVIRC). Each of these organisations articulated, in different ways, the challenges the new family law system faces in dealing with cases involving family violence. Both the FMC and the FCoA responses outlined more focused and streamlined approaches to dealing with the issue, with a particular emphasis on ensuring that cases end up on the pathway to the most appropriate court.

The issue of what pathway cases involving family violence should take was also the focus of the response from Alice Bailey of the DVIRC. She made the important point that the legal culture has to change if the issue is to be dealt with more effectively. The responses of the courts suggest that efforts to produce deeper understandings of family violence among court personnel are underway.

A key point made by the Allegations of Family Violence report is that evidentiary support for many allegations of family violence is lacking, reflecting a range of factors, including, probably most importantly, that it is a phenomenon that occurs in private and may have actively been concealed by the target for a range of reasons. This poses particular difficulties in a legal context, as there may be no basis for a finding of fact, yet these ‘unprovable’ facts are germane to determinations about parenting arrangements. The thought-provoking response provided by Relationships Australia suggests that in such situations family dispute resolution may well be capable of producing better outcomes, because it avoids a forensic focus and may be a context better suited to encouraging people to take responsibility for their behaviour.

In the context of this discussion about dispute resolution processes and the new family law system, it is also impor-
tant to recognise the significance of the changes to court processes introduced as part of the Family Law Amendment (Shared Parental Responsibility) Act 2006. As discussed in an article by former Family Court judge Professor Richard Chisholm in this edition, the Less Adversarial Trials process represents a new model that has the potential to offer real benefits and a more child-focused process. Another aspect of the new family law system is dealt with in Catherine Caruana's article on Family Relationships Centres (the new ‘gateway’ to the system), which provides a window of insight into their operations through interviews with centre managers.

Research on programs to help: Stepfamilies and pre-marriage education

One of the most challenging family forms, from both a policy and individual perspective, are those where adults are forming new partnerships and children from previous relationships are involved. As the article by Murdoch Children's Research Institute principal research fellow, Jan Nicholson, and her colleagues, points out, such families involve particularly complex dynamics, reflected in a heightened risk of separation.

In addition to a useful review of research on programs to assist stepfamilies, Nicholson and colleagues present the findings of a study involving participants in the StepPrep Program in Brisbane. Illustrating the complexities of re-partnering with children, the research highlights a range of motivations for participation in the free program, including the desire to learn how stepfamilies function and how to achieve greater harmony in stepfamily relationships. The authors use the findings of the study to reflect on how services in the new family law system, such as Family Relationship Centres, might develop strategies to address the needs of stepfamilies.

An article by Institute researcher Robyn Parker on research into pre-marriage education in the United States also highlights the positive role that relationship support programs can play. A large-scale study spanning four American states (Stanley, Amato, Johnson, & Markman, 2006) described by Parker found that participation in pre-marriage education had positive impacts on levels of marital satisfaction, conflict and commitment, especially in the short term.

Parent–child relationships: Empirical snapshots

Moving away from a focus on issues related to marriage and separation, a final research article examines another aspect of family life – father involvement with 4–5-year-olds. Institute research fellow Jennifer Baxter analyses data from Wave 1 of Growing Up in Australia: the Longitudinal Study of Australian Children (LSAC), and provides an interesting and varied picture of relationships between fathers and 4–5-year-olds in the LSAC cohort. This piece sheds interesting light on one of the big contemporary questions, the issue of work–life balance and the extent to which work commitments impede the development and maintenance of healthy family relationships. Baxter’s analysis shows that working long hours results in a small decline in father involvement but significant variations exist in the cohort, suggesting other issues, possibly including motivation, may play a role.

Conclusion

The research featured in this special edition canvasses a diverse range of issues, but leaves many more topics in this complex area untouched. In selecting the content, we have attempted to address issues of current concern and make available research that is timely and relevant. One of the unifying threads running through the edition is the nexus between research, policy and practice. This can be seen particularly clearly in the Allegations of Family Violence report, which provides more comprehensive insight into what has been a particularly poorly understood topic than has been available before. In providing responses, the FCA, FMC, RA and DVIRC have opened the door for deeper understanding of the practical challenges that allegations of family violence raise, and of the steps being taken to address them more effectively. Similarly, Nicholson and colleagues’ study of the StepPrep program provides pointers for further policy development and effective service delivery.

In this regard, it is also pertinent to draw attention to the Institute’s “Evaluation of the family law reform package”, (see page 39). In commissioning this research, the Australian Government has responded to the observation of the Parliamentary Committee that produced the Every Picture Tells a Story report that there was a dearth of empirical data on the impact of separation on families and their progress through the family law system (Recommendation 19, Australia. Parliament. House of Representatives Standing Committee on Family and Community Affairs, 2003). This research will help fill the gaps that currently exist in collective understandings of how the family law system operates, and what impact it has on the experiences of families undergoing separation.

References


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