

Chapter 5

The Role of the Commonwealth Government

When the Commonwealth of Australia was established in 1901, the new national Parliament was given powers to make laws with respect to marriage, divorce and matrimonial causes.¹ However, it was not until 1959 that the Commonwealth Parliament passed the first national divorce law and 1961 that a national Marriage Act was introduced.² In addition to regulating the circumstances of marriage, the Parliament provided for the funding of marriage counselling and education programs in the 1961 legislation as a response to the development of marriage guidance agencies. Australia's divorce rate was at a post-war low of just 2.8 per thousand married women, having fallen from 5 divorces per thousand married women in 1950.

In 1975, the Australian Parliament, by a narrow majority, passed unilateral, no fault divorce legislation to replace the Matrimonial Causes Act. The new *Family Law Act 1975* sought to establish a law based upon two pillars: the support for marriage and family; and the right of a party to leave a marriage upon its irretrievable breakdown, the latter being evidenced by 12 months separation of the parties. Support for marriage was provided in a number of ways. First, the Family Law Act specifically provided that, in making any adjudication, the court must have regard to 'the need to preserve and protect the institution of marriage as the union of a man and a woman to the exclusion of all others voluntarily entered into for life; and the need to give the widest possible protection and assistance to the family as the natural and fundamental group unit of society, particularly while it is responsible for the care and education of dependent children.'³

Secondly, the Family Law Act provided that the court should have regard to 'the means available for assisting parties to marriage to consider reconciliation or the improvement of their relationship to each other and to the children of the marriage.'⁴

Thirdly, the Family Law Act provided for the funding of organisations and agencies providing marriage education through what has become known as the Family Services Program. Fourthly, the Family Law Act provided for the establishment of the Australian Institute of Family Studies as an institution devoted to research about families.

1 *Australian Constitution*, s 51(xxi) and (xxii).

2 *Matrimonial Causes Act 1959*; and *Marriage Act 1961* respectively.

3 *Family Law Act 1975*, s 43(a) and (b).

4 *Family Law Act 1975*, s 43(d).

Two decades after the introduction of the Family Law Act, the second pillar, the right of a person to unilaterally end a marriage, remains the operational basis of the legislation. Speaking in 1991, the Chief Justice of the Family Court conceded the failure of the supportive provision:

Originally it was thought that the Court would play a role in the promotion of reconciliation, but the experience of the past 15 years has been that by the time that a couple approaches the Court, there is little room for reconciliation, and such reconciliations that do occur are of uncertain and doubtful duration.⁵

Funding of the marriage education program remained meagre throughout the 1970s and 1980s. In 1989–90, the Commonwealth government provided just \$248,000 to 24 agencies throughout the nation. The funds were doubled to over \$500,000 by 1991–92, but the Chief Justice of the Family Court could still observe:

The federal Government currently spends \$509,000 on marriage education. I have seen a bill of costs for \$500,000 in one family law case.⁶

Substantial increases in funding have occurred in recent years, due to a number of factors. First, valuable work was undertaken by the then two national bodies for marriage education, the Catholic Society for Marriage Education (CSME) and the Australian Association for Marriage Education (AAME) during the period 1987–94. Although CSME had been founded in 1973 and AAME in 1979, their principal activity was an annual workshop for marriage educators until the mid 1980s. The two national executives began meeting together in 1988, leading to the appointment of a national trainer in 1989; the inauguration of an annual national conference in 1989; the establishment of a marriage education research project at the University of South Australia in 1991, which resulted in the studies *Love, Sex and Waterskiing* (1992) and *Pathways to Marriage* (1994); the appointment of an Executive Officer in 1992; the printing of promotional brochures and the production of a pilot media campaign ‘How long before your marriage breaks down?’ in 1993; and the continuing upgrade and expansion of *Threshold* as a national magazine for all marriage educators. CSME also introduced the FOCCUS pre-marriage inventory nationally in 1990. Much of this activity was undertaken with the financial assistance of the federal government, and the then Minister for Justice, Senator Michael Tate, who supported the developments. Much of the credit for the developments rests with the executives of the two national bodies, which were able to put aside differences to work co-operatively for the advancement of the field, especially through their direct approach to the Minister.

Other developments contributed to the increased funding of marriage education. The Joint Select Committee on Certain Aspects of the Operation and Interpretation of

5 ‘Family Court Chief Calls for More Marriage Education’ (1991) *Threshold* 34: 6.

6 ‘Marriage education funding’ (1991) *Threshold* 24 : 3.

the Family Law Act recommended that the Commonwealth Government substantially increase funding for community education in relation to the rights and responsibilities of marriage and parenthood; effective parenting; communication and dispute resolution skills; and anger management – all components of marriage education.⁷ That committee was:

... strongly of the view that there is a compelling cost benefit argument in favour of more funding for preventative education, which might help reduce the number of marriages which reach the stage of breakdown. Successive governments have given this field far too low a priority for funding, and the Committee believes that immediate action should be taken to rectify this situation.

The then Labor Government increased funding in its 1995 *Justice Statement*. Secondly, the federal coalition parties promised a doubling of the funding in their 1996 election platform. This promise was delivered in the 1996 budget by the new Government.

Family Relationships Services Program

The Australian Government has supported marriage and family life through its Family Relationships Services Program for the past four decades.⁸ This program is only one aspect of national family policy which extends to family taxation initiatives, childcare, a national health scheme and other measures. The program began with grants to organisations offering marriage counselling services in the 1960s and has been extended since to marriage education, parent-adolescent mediation services, family (divorce) mediation, and family skills (parenting) programs. The primary purpose of the program is to promote and maintain quality family relationships.⁹ Grants are provided by the Attorney-General's Department pursuant to provisions in the Marriage Act and the Family Law Act and other administrative arrangements. These programs illustrate the development of a partnership between government and community in the support of marriage and the provision of relationship advice and skills to families.

A partnership with the community

A partnership between the national government and the community, utilising the institutions of civil society, forms the basis of the development of the Family Services Program in Australia. This partnership has its origins in the support of marriage

7 Joint Select Committee on Certain Aspects of the Operation and Interpretation of the Family Law Act (1992) (Canberra, AGPS): para 4.97

8 Formerly the Family Services Program.

9 ARTD Management & Research Consultants(1996) *Evaluation of the Marriage and Relationship Counselling Sub-Program* Canberra: Attorney-General's Department iv.

counselling in the UK in the immediate post-war period. A UK Home Office Committee concluded in 1948 that the work of marriage guidance:

. . . is better left as far as possible to the initiative of voluntary organisations and which cannot like other forms of social work be undertaken – at any rate at the present time and without further knowledge and experience – by official bodies.¹⁰

The approach of supporting community agencies providing family services was adopted in Australia. Since 1960, the Australian Government has provided grants to both secular and church-based marriage and family organisations.¹¹ There are currently some 60 agencies in receipt of government grants, and possibly that many again offering similar services.

From the outset, Australian governments encouraged voluntary and independent agencies. The then Attorney-General, Hon Garfield Barwick, told Parliament in 1959 that:

I do not hold the view that this work can be done satisfactorily by people who make it no more than a means of livelihood. The work will best be done by those who, as well as being trained, have a sense of vocation and who, to a large extent, volunteer their good offices in this very skilful and sympathetic task.¹²

Although the agencies have since developed substantial education programs for their staff and promoted the use of skilled personnel, the ‘partnership’ between government and community agencies remains a central feature of the Australian experience. Today, agencies in receipt of grants from the national government also contribute their own funding to programs and are expected in most cases to seek a co-contribution from their clients.

10 *Departmental Committee on Grants for the Development of Marriage Guidance (Haris Committee) Report* (1948) Cmnd 7566 London: HMSO.

11 See *Matrimonial Causes Act 1959; Family Law Act 1975*, ss 4(1) and 12.

12 *ibid.*

The following table indicates Commonwealth funding for the major sub-programs of the Family Relationships Services Program (formerly the Family Services Program) for 1996-97.

Service	Funding \$	No of organisations	Clients (estimated)
Family & Relationship Counselling	15,187,524	41	91,302
Marriage & Relationship Counselling	2,693,120	46	29,477(a)
Family & Child Mediation	5,080,404	17	4,564
Family Skills Training	2,003,254	21	10,602
Adolescent Mediation & Family Therapy	1,942,254	12	3,631(b) 5,118(c)
Contact Services	1,111,158	10	859(d)

Source: Legal Aid and Family Services 1998

Notes: (a) The figure underestimates the total number of persons participating in marriage and relationship education in Australia. See chapter 6; (b) Young person clients; (c) Adult clients; (d) New child clients.

Family services programs

The programs can be divided into three categories:

- those of a primarily preventive nature (marriage education, and family skills training);
- those related to supporting marriage and family life where problems have arisen (marriage counselling, and parent-adolescent mediation); and
- those aimed at more harmonious separation and on-going family relationships (Family Court counselling and family mediation).

In the following section, the development of the programs is summarised in more detail before the preventive services are addressed in more detail.

Preventive programs

Education for marriage

During the 1950s, Christian churches in Australia conducted Pre-Cana conferences for engaged couples. These programs tended to be of one day's duration at which a Priest or Minister, and married couples spoke to the engaged. Recognition of the need for marriage preparation and the provision of it had been pioneered largely by the churches. In 1920, for example, the Lambeth Conference of Bishops of the Anglican Communion recommended that the clergy should regard it as part of their pastoral responsibility, and by 1969 the practice became a canonical duty.

The importance of adjusting to differences and understanding family backgrounds was recognised when the Australian Parliament first enacted legislation for matrimonial causes in 1959.¹³ In his Second Reading Speech on the Matrimonial Causes Bill, the Attorney-General, Hon Garfield Barwick said:

I am conscious that in the early days of married life, particularly amongst younger people, the two personalities which had theretofore no need to consider anyone's interest or comfort but their own, must make many adjustments in accommodation each to the other in married life.¹⁴

Provision was made in the Marriage Act for grants to marriage counselling agencies for the purposes of conducting programs of marriage preparation.¹⁵

Although most agencies commenced programs with volunteer staff, a number of factors have resulted in a more commercial approach in the past decade: the growing user pays policies of governments; the increasing emphasis on training standards accreditation and peer review, the academic study of counselling and education; and the recognition that justice demands adequate recompense for work. Most agencies now charge fees to their clients and counsellors and, to a lesser extent, educators, are paid. However, most work part-time and sessional hours.¹⁶ There are some 100 agencies throughout the nation providing marriage education, of which 40 are in receipt of grants from the Australian government. In 1994–95, 28,173 people, three-quarters of whom were couples, attended over 17,000 sessions conducted by marriage education agencies.

A 1991 evaluation of the program by researchers at the University of South Australia surveyed 1,698 people attending marriage preparation programs throughout Australia. The study revealed that five per cent of the couples either postponed or cancelled their wedding as a result of attending a program. Ninety-one per cent of couples reported that after attending a program they would seek professional help if problems arose in their marriage and 83 per cent of the participants reported learning new skills.¹⁷ Comments from participants who called off the wedding make instructive reading:

I feel it exposed weaknesses in our relationship. After the program we reviewed the questions and answers and still could not resolve many, many issues.

13 Although in 1901 the federal Constitution provided that the national parliament could enact legislation pertaining to divorce and matrimonial causes, it did not do so until 1959.

14 *Hansard*, House of Representatives 14 May 1959 2225.

15 *Marriage Act 1961*.

16 I Wolcott and H Glezer (1989) *Marriage Counselling in Australia* Melbourne: Australian Institute of Family Studies 21–22.

17 R Harris, M Simons, P Willis and A Barrie (1992) *Love, Sex and Waterskiing* Adelaide: University of South Australia.

We were made aware that we didn't know each other as well as we thought. [We] discussed issues previously overlooked. Discovered differences we couldn't resolve and which probably would have become major points of conflict in our marriage. I believe now we hadn't thought enough about marriage and everything involved. We would not have lasted. We are very grateful for this program.¹⁸

The five per cent cancellation or postponement rate is a conservative measure, as it was based on a reduced number of follow-up surveys. Three further factors are also relevant. First, the engagement is an event of significant cultural and social importance in Australia. It usually involves the public announcement of the event, often in a newspaper; a party; and the giving of gifts to the couple. As such, it signifies an important commitment. Secondly, the majority of couples live together prior to marriage. According to the Australian Bureau of Statistics, some 57 per cent of couples cohabit before marriage. Thirdly, most couples who attend marriage preparation programs, do so after their engagement. These factors present new challenges to marriage educators.

The 1994 study *Pathways to Marriage*, which sought the views of 1127 individuals married in 1993 and 547 marriage celebrants found that the great majority of respondents who had participated in programs considered, from their vantage point of several months of marriage experience, that the program they attended had been 'useful' or 'very useful'.¹⁹ The subsequent study also revealed that the attitude of the marriage celebrant was the most important factor in couple participation in a pre-wedding program. While religious celebrants saw encouraging attendance at a program part of their role, civil celebrants did not. Almost half of the couples who attended programs reported that their priest or minister encouraged participation. But not one respondent indicated that a program had been suggested by a civil celebrant.²⁰ Although 73 per cent of respondents had known of the existence of pre-marriage education programs prior to their wedding, only one in five attended. The six most stated reasons for not attending a program were:

- I didn't think we needed to go to a course about marriage;
- I believe it is best for us as a couple to sort out our problems;
- My partner and I had lived together before we got married;
- We did not have any problems with our relationship;
- I'm not interested in attending programs; and
- I did not want to discuss personal issues with others.

These responses reflected a number of powerful myths about marriage and relationships:

- that they are private and natural;

18 *ibid.* 117.

19 M Simons et al. (1994) *Pathways to Marriage* Adelaide: University of South Australia.

20 'Celebrants key to marriage education' (1994) *Threshold* 45: 3.

- that cohabitation is the same as marriage; and
- that marriage education is the same as marriage counselling.

Two further examinations of the marriage education program are taking place currently. First, the Attorney-General's Department has sponsored an evaluation of the program with a view to identifying levels of awareness of the services, attitudes towards the services and barriers to access.²¹ Secondly, the House of Representatives Committee on Legal and Constitutional Affairs is conducting this inquiry.

Family Skills (Parenting) Education

In response to a perceived community need to provide parent education directed at disadvantaged parents, the Commonwealth Government funded the Family Skills Training Program in 1991.²² The program was partially in response to the report of the National Committee on Violence.²³

Announcing the project, the then Minister for Justice, Senator Hon Michael Tate, said:

Family skills training will be a process which aims to provide disadvantaged families with an alternative model of parenting and family functioning; something with which to compare their own experience. . . . It will complement existing marriage education, marriage counselling, family mediation and adolescent mediation services and enhance access and equity of service delivery to disadvantaged families. . . . the pilot program will be based on a model of adult education . . . It will however, add a new factor in that parents participating in these groups will be built into a series of ongoing community self-support groups. These groups will provide a network of contacts for the parents who attend them, and provide ongoing support for the participants enabling them to recall the group leaders to conduct follow-up groups if, and when, they are required.²⁴

In 1994–95, the funded agencies provided over 4,000 sessions of these parenting programs in disadvantaged neighbourhoods.

A series of other reports had supported the advantages of positive parenting.²⁵ However, the provision of family skills and parenting programs varies markedly from state to state. As a national review noted:

21 Office of Legal Aid and Family Services (1996) *Terms of reference for a research project on marriage and relationship education* Canberra: Attorney-General's Department.

22 I Wolcott (1992) 'Family Skills Training Program' *Family Matters* 31: 30.

23 National Committee on Violence (1990) *Violence: Directions for Australia* Canberra: Australian Institute of Criminology.

24 'Family Skills Program' (1990) *Threshold* 30: 3.

25 (1991) *Effective Parenting: A Review of Parent Education in Western Australia* Perth: WA Office of the Family; Parliament of the Commonwealth of Australia, Senate Standing Committee on

With the exception of Victoria and Western Australia, there has been no significant attempt by State authorities to ascertain the level of availability of parent education in those States, nor does there appear to be any significant interest in parenting education as a whole.²⁶

Programs consisted of a combination of volunteer networks and some education and community service programs. The two most well-known programs provided through networks are STEP (Systematic Training for Effective Parenting) and PET (Parent Effectiveness Training), both of which are US in origin and promoted by the Australian Council for Educational Research. These programs are conducted in most States. It is not clear how many parents use the programs, but usage does not appear to be widespread.

A Western Australian review of parenting programs noted:

Although there has been no widespread evaluation in Australia which has demonstrated the effectiveness of parent education in reducing social problems, there is a growing body of research evidence . . . which demonstrates the utility of various parent education programs. A significant number of professionals working in the field believe that training can improve parenting practices, which in turn impact on better outcomes for the child's emotional, social, cognitive and physical development.²⁷

That committee concluded:

In the final analysis, the Committee recognises that all parents can benefit from parent education and that a diversity of services are needed to cater for a range of parent needs. However, for these services to be effective they need to be widely promoted as vital to the health and well-being of the community. As long as the 'parenting is instinctive' myth prevails, education will be perceived by many as unnecessary. Individuals are unlikely to avail themselves of services they do not see as relevant. They may be motivated to seek help in a crisis, but for many this type of crisis intervention does little towards preventing their problems. Ongoing parent education through the life-span needs to be generally promoted and accepted as valuable to the well-being of parents, the children they are raising and to society in general. Positive, effective parenting needs to be widely acknowledged and promoted as being of value to society, not devalued as it tends to be at present.²⁸

Social Welfare (1985) *Children in Institutional and Other Forms of Care* Canberra: AGPS; and Royal Commission on Social Policy (1988) Wellington: New Zealand.

26 P Bretherton (1991) *A Report into Parenting Education in Australia* Canberra: Attorney-General's Department.

27 *Effective Parenting* supra 3–4.

28 *ibid.*

An evaluation of the Commonwealth Family Skills Program found:

- The program was providing a service to disadvantaged families. Almost all clients were low income families, about half were single parents and a small proportion were from non-English speaking backgrounds, had Aboriginal or Torres Strait Islander or disabled children.
- The majority of clients were women.
- The program produced substantial improvement on all the measured factors associated with poor parenting and family functioning, and child abuse.
- However, the program was only 'scratching the surface' of the population it could help.²⁹

Western Australian Child Health Survey

The Western Australian Child Health Survey, a large scale epidemiological survey of a statewide representative sample of children and adolescents, showed that disruptive behaviour disorders are common:

- 18 per cent of WA children between the ages of 4 and 16 years have clinically significant behavioural or emotional problems as defined by parent and teacher ratings on the Achenbach Child Behaviour Checklist;
- 10.1 per cent of 4–11 year olds show problems of delinquency (that is, behaviours involving major transgressions of rules and norms set by parents and communities);
- 3.1 per cent of 4-11 year olds had significant aggressive behaviour (as evident by bullying, teasing, threatening, fighting, arguing and temper tantrums); and
- Only a small proportion (less than 2 per cent) of children with parent and teacher defined mental health problems had received assistance from a specialised mental health professional or service.³⁰

The research found particular risks of mental health problems: Coercive (3.3 times the risk), detached (2.2) or inconsistent (2.2) discipline; step/blended (2.4) and single parent (2.5) families; and high levels of marital discord (1.7).³¹

As a consequence of this research, the WA Child Health Institute and the Health Department of Western Australia have developed a Positive Parenting Program.³² which targets parents of preschool children aged 3–4 years recruited from areas of high socioeconomic disadvantage in Perth.

Good Beginnings Parenting Project

29 (1992) *Family Skills Training Evaluation Report* Canberra: Attorney-General's Department.

30 SR Zubrick et al (1995) *Western Australian Child Health Survey: Developing Health and Well-being in the Nineties* Perth: Australian Bureau of Statistics and the Institute for Child Health Research.

31 Professor Stephen Zubrick, *Transcript*, p.705-707 .

32 Ms Anwen Williams et al., *Transcript*, p. .713-717

This year, the Federal Department of Family Services approved a development grant to the National Association for the Prevention of Child Abuse and Neglect (NAPCAN) and the Lions Club of Greater Sydney to establish a *Good Beginnings* volunteer home visiting service to enhance parenting skills for families with new babies. The aim of the project is 'to implement and test a number of family-centred programs which will promote confidence and self-esteem and strengthen parent's belief in their own parenting skills, which in turn strengthen families and neighbourhoods and maximise the health and development of all children.'³³

Programs supporting marriage where problems have arisen

Marriage counselling

In the 1940s and 50s, marriage guidance agencies, modelled on the pattern developing in the UK, were established in Australia.³⁴ The Marriage Guidance Council had been established in the UK in 1937, the Catholic Marriage Advisory Council in 1946, and the Family Discussion Bureau in 1948.³⁵

The work of marriage guidance (as it was then known) had been scrutinised in the UK at the end of the Second World War by a committee established to examine 'whether any (and if so, what) machinery should be made available for the purpose of attempting a reconciliation between the parties, either before or after proceedings had been commenced.'³⁶ In its Final Report, the Denning Committee stated:

We have throughout our inquiry had in mind the principle that the marriage tie is of the highest importance in the interests of society. The unity of the family is so important that, when parties are estranged, reconciliation should be attempted in every case where there is a prospect of success.

That committee recommended that it should 'be recognised as a function of the States to give every encouragement and, where appropriate, financial assistance to marriage guidance as a form of Social Service.'

According to guidelines issued by the Australian Attorney-General's Department, marriage counselling is 'a process where a neutral third party, focussing on the emotional dynamics of relationships and the stability of marriage within a family

33 National Association for the Prevention of Child Abuse and Neglect *National Good Beginnings Parenting Project* 1997.

34 J Crawley (1986) 'The Attorney-General's Stable Door: Marriage Counselling Services in Australia' cited in K Andrews (1993) *The Provision of Family Services* Canberra: Liberal and National Parties.

35 Working Party on Marriage Guidance (1979) *Marriage Matters* London: HMSO 3.

36 Committee on Procedure in Matrimonial Causes (Denning Committee) (1947) *Final Report* Cmnd 7024 London: HMSO.

unit, assists parties to deal with the stresses they encounter as they move into, live within, or move out of that family unit.'³⁷

In 1994–95, 698 counsellors in 41 approved agencies provided over 210,000 hours of marriage counselling to 85,000 clients in Australia. To place this in context, the Australian population is 19 million people. There were 110,718 marriages and 48,256 divorces in 1994.³⁸

A further development occurred when the Australian Parliament enacted unilateral, no-fault divorce law in 1975. The legislation included provisions which sought to encourage couples to achieve reconciliation. Section 14(5) of the *Family Law Act 1975* provides:

Where a court having jurisdiction under this Act is of the opinion that counselling may assist the parties to a marriage to improve their relationship to each other and to any child of the marriage, it may advise the parties to attend upon a marriage counsellor or an approved marriage counselling organisation and, if it thinks it desirable to do so, adjourn any proceedings before it to enable the attendance.

The Act originally required counselling to be undertaken by a couple married for less than two years prior to a divorce hearing.³⁹ The Act also provided that counselling and welfare staff be appointed to the Family Court to assist reconciliation and, if unsuccessful, to assist parties to conciliate agreement on property, custody and access issues.⁴⁰ In practice, Family Court counselling is largely directed to conciliation of the divorce process.

One researcher concluded that 'in general, Family Court counselling services appear now to specialise in short-term counselling to resolve disputes over custody access issues resulting from marriage breakdown.'⁴¹ As a consequence, two distinct types of counselling is now provided in Australia: First, reconciliation or marriage counselling provided by secular and church agencies; and, secondly, conciliation or divorce counselling provided by the Family Court. The Australian government currently grants some \$15 million to 41 agencies providing marriage counselling. A 1993 census of marriage counselling organisations funded by the national government showed:

- more women than men used counselling (55 per cent of all clients);

37 D Fox (1988) 'Guidelines for organisations seeking approval' Canberra: Attorney-General's Department.

38 Family Court of Australia *Annual Report 1994–95* Sydney: Family Court of Australia 71–72.

39 *Family Law Act 1975* s 14 (6) which was subsequently replaced by s 44 (1B) in 1983.

40 Section 37(8).

41 I Wolcott (1984) *Marriage Counselling Services: Priorities and Policy* Melbourne: Australian Institute of Family Studies 29.

- most clients were aged between 25–44 years (70 per cent);
- most clients were living with a partner on either a married (per cent) or a de facto (per cent) basis;
- most clients had dependent children (62 per cent); and
- the primary language spoken at home is English (with only 2.4 per cent non-English speaking).⁴²

The most common goals were to remain together or to improve the relationship (47 per cent); while 18 per cent approached the services to decide about separation or divorce; 11 per cent to cope with separation or divorce; and 7 per cent to get back together.

Two evaluations of marriage counselling services have been undertaken in recent years. First, the Australian Institute of Family Studies surveyed 1,300 clients who attended an approved agency in 1987. In particular, the survey found:

- In results of counselling, of those who were in an intact relationship, 81 per cent of women and 78 per cent of men remained together. Of those who were initially separated a higher proportion of women (30 per cent) than men (11 per cent) had reconciled. One quarter of women and 30 per cent of men stated that they were more optimistic about their relationship continuing since counselling. Where separation did occur, in over half the cases it was women who initiated the action.
- Satisfaction was significantly related to the final status of the relationship, particularly for men. Approximately 50 per cent of the men and women who were together in the relationship were satisfied with the results of the counselling. Women who were in a separated situation were more likely to be satisfied with the counselling outcome (60 per cent) compared with separated men (41 per cent). A more recent study for the Family Court of Australia revealed that 10 years after divorce 46 per cent of men still felt angry towards their ex-wife, the same percentage as a decade before; 63 per cent reported still feeling as though they had been dumped, only a 2 per cent drop from a decade before; and 35 per cent reported feeling that they would never get over the divorce, compared to 39 per cent ten years before.⁴³
- In improvement in problem area, personal life and quality of relationship, over three-quarters of women and 83 per cent of men in intact relationships thought the problems they came to counselling about had changed for the better. Less than half of the women and 37 per cent of the men who were separated felt this way.
- The helpfulness and benefits of counselling most frequently mentioned were acquiring skills in communication and handling conflicts, gaining insight into

42 Attorney-General's Department (1993) *1993 Marriage Counselling Census* Canberra: Office of Legal Aid and Family Services.

43 P Jordan (1996) *The effects of marital separation on men – 10 years on* Sydney: Family Court of Australia Research Report No. 14.

oneself, one's partner and the dynamics of the relationship, and, for women, obtaining emotional support.⁴⁴

A subsequent evaluation of the program for the Attorney-General's Department examined the cost and effectiveness of services according to financial and client service measures. Significantly, the evaluation found that only an estimated 34 per cent of the potential need for marriage counselling was met through the program.⁴⁵ The extent to which other need was being met by unfunded agencies and individual counsellors was unable to be determined. Some sense of the need is indicated by 3-4 week waiting periods for many agencies.

A new program focussing on men and relationships was established in 1998.⁴⁶

Parent-Adolescent mediation

In response to the 1989 national report on youth homelessness, *Our Homeless Children*, the Federal Government funded eleven organisations to conduct Adolescent Mediation and Family Therapy services aimed at 'the resolution of conflicts between young people and their parents or caregivers to prevent young people from leaving home before they have developed the skills and gained the financial and emotional independence to do so.'⁴⁷ The report on Youth Homelessness had found a strong link between youth homelessness and family conflicts and breakdown of marriage.⁴⁸ The report concluded that 'there is a clear need of preventive services to be provided to families as part of an effective strategy to attack youth homelessness.'

In an overview of parent-adolescent mediation in Australia, Australian Institute of Family Studies researcher, Ilene Wolcott, observed:

Parent-adolescent mediation programs parallel that of couple mediation in process and principle. . . . the majority of services adhere to a philosophy based on principles of voluntary participation, neutrality, confidentiality and empowerment. The key element is empowerment – providing family members with skills to gain control over, and responsibility for, decision making in their lives. Conflicts, fears and needs are identified. The focus is on future actions and opportunities, not past behaviours and blames. A range of

44 I Wolcott and H Glezer (1989) *Marriage Counselling in Australia – An Evaluation* Melbourne: Australian Institute of Family Studies.

45 ARTD Management & Research Consultants (1996) *Evaluation of the Marriage and Relationship Counselling Sub-Program* Canberra: Attorney-General's Department.

46 See Chapter 8 below.

47 Attorney-General's Department (1989) *Guidelines for organisations seeking funding of Youth Homelessness Services* Canberra.

48 Human Rights and Equal Opportunity Commission (1989) *Our Homeless Children* Canberra: AGPS paras 8.16–8.23.

options are explored and workable agreements reached that hopefully emphasise co-operation and compromise.⁴⁹

The preventive nature of the programs is notable. Thus Wolcott writes of one Tasmanian program:

The purpose of *Hassles* is to 'prevent the disintegration of families and family relationships through unresolved conflict, with resultant youth homelessness, and to equip family members with conflict resolution skills whereby they are empowered both individually and in their joint decision-making.' Emphasis is on providing a safe and neutral place for parties to come together to sort out the issues that divide them.⁵⁰

In this context, parent-adolescent mediation may combine elements of negotiation, therapy, counselling and education. While the outcome of the process may be that a young person still leaves home, the program can be more akin to the development of family skills than the resolution of conflict surrounding marriage dissolution. Overseas evaluations of these type of programs have indicated their effectiveness.⁵¹

An evaluation by the Australian Institute of Family Studies in 1992 found that young people in the program were generally in the age 13–16 years, with two-thirds of them still living at home when they participated. Only a small proportion of the adolescents were chronic homeless youth, with most being at risk of leaving home due to family conflict. Counsellors estimated that there was a high to medium risk of homelessness in 70 per cent of the families, and nearly two-thirds of the families were rated as having complex problems. The most frequently mentioned presenting problem recorded by counsellors was discipline in the home, followed by arguments over daily routines such as chores, curfew, appearance, the young person's desire for independence and verbal and emotional abuse towards parents. The researchers noted that 'overall problems are considered to reflect tensions associated with the more fundamental issues of parental control and adolescent autonomy.'⁵²

In 1994–95, there were 12,292 interviews funded under the Program, of which 521 were face-to-face mediation interviews, 7,411 were face-to-face family therapy interviews, and 4,360 were telephone interviews.⁵³

49 I Wolcott (1990) 'Family Conflict: Mediating Differences and Disputes within Families' *Family Matters* 27: 31.

50 *ibid.* 32.

51 I Wolcott (1992) 'AIFS Evaluation of Parent-Adolescent Mediation and Family Therapy Programmes' *Family Matters* 31: 63.

52 I Wolcott and R Western (1992) *Evaluation of Parent-Adolescent Mediation and Family Therapy Program* Melbourne: Australian Institute of Family Studies.

53 Legal Aid and Family Services (1995) *Family Services Program, Statistical Summary, 1994-95* Canberra: Attorney-General's Department.

Programs aimed at harmonious separation

Family mediation

In 1983, Chief Justice Elizabeth Evatt of the Family Court wrote to the Commonwealth Attorney-General expressing a desire to establish community services which would minimise litigation in family law disputes and maximise the opportunities for conciliation and alternative dispute resolution. This desire partly originated from an acknowledgment of the success of Family Law Counselling in assisting couples resolve disputes and a recognition that frequently couples were already involved in sometimes costly and bitter litigation before they sought access to such services. A subsequent report by the Family Law Council suggested the establishment of a series of pilot community based Family Law Centres, which occurred in the following two years. The Family Court established its own mediation services in 1990.

Although some doubts have been expressed about the cost-effectiveness of mediation as a substitute for litigation,⁵⁴ it has continued to develop in Australia. Today, mediation is conducted by a range of organisations: Dispute Resolution Centres, Marriage Counselling organisations, Community Justice Centres, Conflict Resolution Services, Youth and Community agencies, and the Family Court. Funding is provided by Commonwealth and State Attorney-General's Departments, and State Departments of Community and Youth Services.

Evaluations of these programs in 1995 and 1996 found that 75–78 per cent of participants had reached agreements through the process. These results were maintained some 6–8 months after the mediation. Although changes to the agreements took place in about one-third of the cases, less than 10 per cent had been due to a formal breakdown of the agreement.⁵⁵

Changeover and Visiting Services

Funding for Changeover and Visiting Services was first made available in 1995–96. The purpose of these services is to assist children who could not otherwise have contact with their non-residential parent due to high levels of conflict or concerns about safety. The services give children the opportunity to spend time with their non-residential parent in a supervised environment, or be transferred from one parent to the other in a way that is safe for all involved. They aim to help people to reach the stage where they can independently manage their own changeover and visiting.⁵⁶

54 CJ Richardson (1988) 'Court-based divorce mediation in four Canadian cities: An overview of the research results' Ottawa: Department of Justice. See also, report of the UK Lord Chancellor on family mediation.

55 A Love, L Moloney & T Fisher (1995) *Federally Funded Family Mediation in Melbourne* Canberra: Attorney-General's Department x; and L Moloney, T Fisher, A Love & S Ferguson (1996) *Federally Funded Family Mediation in Sydney* Canberra: Attorney-General's Department 19–20.

56 Attorney-General's Department, *Submissions*, p. S946.

Two services are funded in New South Wales and Victoria, and one in each of the other States and Territories.⁵⁷ In the year 1996–1997 a total of 2,531 supervised visits were made through these funded services.⁵⁸

57 Family Relationships Services Program *1996-97 Statistical Summary*, p. 28.

58 *ibid.*