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## Aspects of divorce

Reference materials covering aspects of divorce is an important component of the information available on the *Australian Family & Society Abstracts* database at the Australian Institute of Family Studies. This bibliography provides a selection of recent research dealing with divorce, in particular how divorce affects children, both as young people and as adults, the question of fault in divorce, and financial aspects of divorce.

These references are available on interlibrary loan from the Institute's Family Information Centre. Some of the books and articles are also available in full text on the internet with online addresses provided. Others are available from bookshops and libraries.



Effects of divorce

Burrett, J. (1999), *But I Want to Stay with You ... Talking with Children about Separation and Divorce*, Simon and Schuster (Australia), East Roseville, NSW, 158p.

All parents go through some personal turmoil about the effects separation will have on their children. This book aims to teach parents how to talk with and respond to their children about separation, divorce and all of the accompanying family challenges. The book takes the reader through common separation-related behaviour expressed by children and shows the most effective responses. It helps determine which behaviours are concerning and which are not, by linking children's social and emotional development generally with life in a family divided by a separation.

Dixon, C., Charles, M.A. & Craddock, A.A. (1998), 'The impact of experiences of parental divorce and parental conflict on young Australian adult men and women', *Journal of Family Studies*, vol. 4, no. 1 April, pp. 21-34.

This study (a) investigated the long-term effects of parental conflict and divorce on young men and women who had experienced these disturbances in their childhood or adolescence, and (b) explored gender and socioeconomic status differences in the impact of these factors on externalising and internalising behaviours. The participants were 120 Psychology 1 students (60 females and 60 males) from the University of Sydney, consisting of 40 males and 40 females with married parents, and 20 males and 20 females with divorced parents. Results of the study indicate that when parental marital status alone is considered, there does appear to be evidence of increased externalising behaviour in children of divorce, even after two years. However, there was no evidence of an interaction with gender, and the increase held to the same extent for males as for females. When parental conflict and socioeconomic status were controlled, the relationship between divorce and externalising behaviour was no longer significant, with parental conflict being the sole significant independent contributor to the effect. With regard to internalising behaviour, the results suggest that females are more affected by parental divorce than are males. This result is maintained when controlling for the effects of parental conflict and socioeconomic status. (Journal abstract)

Pryor, J. (1998), 'Waiting until they leave home: the experiences of young adults whose parents separate', Paper presented at the 6th Australian Institute of Family Studies Conference, Melbourne, November, 14p. Online: <http://www.aifs.org.au/institute/afrc6papers/pryor.html>.

Few studies exist which examine the impact of parental separation in young adulthood, and there seems to be an implicit belief that the effects will be minimal. In the present study sixteen young adults (ten women and six men) were interviewed in order to gain an understanding of their experiences of parental separation. Their responses to the open-ended questions were audio-taped and transcribed, and analysed using a grounded theory approach. Preliminary analyses suggest the following. The initial impact for women was devastating and led in many cases to depression and a loss of a sense of identity. Men described coping by a process of distancing themselves from the event and being helpful. Parents subjected their adult children to dilemmas of loyalty, demanding understanding and help in a way which put the children into inverted parenting roles. There was also a loss of a sense of family, which was often embodied in the sale of the family home. This was especially so for women who saw their identity as still connected with their family of origin. Particularly striking was the change in father-child relationships, in which fathers were seen as bewildered and fragile, and were supported emotionally by their children (especially sons) through the dissolution of the marriage. In many cases a father-child relationship was established as a result of the separation, as fathers opened themselves up

to communicating with their children for the first time. Feelings toward mothers were more ambivalent, since in most cases mothers had initiated the separation and were resented, yet also admired for having the courage to end unsatisfactory relationships. Opinion was evenly divided about whether or not parents should have separated earlier in the child's life. (Author abstract)

**Richards, M. & Ely, M. (1998), 'Children's wellbeing, parental divorce and family life: who seems to make the difference in the long term?' in Taylor, N.J. and Smith A. B. (eds.) *Enhancing Children's Potential: Minimising Risk and Maximising Resiliency: Proceedings of the Children's Issues Centre Second Child and Family Policy Conference, 1997, Children's Issues Centre, Dunedin, NZ, pp. 7-24.***

In order to consider the manner in which research on children and divorce has developed in Britain and elsewhere and the ways in which this research has served to change public awareness and to shape social and socio-legal policy, this paper analyses the following historical phases of research on children and parental divorce: attachment theory and family breakdown; showing that divorce matters for children; the process of divorce and separation and the processes by which this can affect children; and individual differences in outcome: vulnerabilities and resiliencies. Data from the National Child Development study (NCDS) and the British Cohort Study, 1970 (BCS70) are used to compare the effects of parental divorce and parental death, highlighting issues of socio-economic status after divorce; educational attainment, current smoking and drinking; and psychological and physical well being. The impact of the British Family

Law Act on children is considered and the role of child counselling and parental support is briefly discussed.

**Rodgers, B. (1998), 'Social and psychological outcomes for children from divorced families: Australian research findings', in Taylor, N.J. and Smith A. B. (eds.) *Enhancing Children's Potential: Minimising Risk and Maximising Resiliency: Proceedings of the Children's Issues Centre Second Child and Family Policy Conference, 1997, Children's Issues Centre, Dunedin, NZ, pp. 219-230.***

This review demonstrates that the sequelae of parental divorce in Australia are similar to those found elsewhere, including the United States and New Zealand. These sequelae stem from family circumstances before, during and after marital dissolution, rather than from loss or lack of a particular parent. There is no scientific justification for disregarding the social and psychological significance of parental divorce, and the importance of support services for children and parents should not be underestimated. Future research needs to identify factors that ameliorate or exacerbate problems associated with parental divorce, including the behavioural signs that identify children who develop long-term problems and the circumstances in adolescence and adulthood that operate as risk and protective factors for adult difficulties.

**Weston, R. & Hughes, J. (1999), 'Family forms: family wellbeing', *Family Matters, no. 53 Winter, pp. 14-20.***

The family plays a pivotal role in shaping the health and wellbeing of the next generation of citizens. It can be a source of great happiness or of misery. The different pathways parents take after divorce have resulted in diverse family forms, each with special needs that may call for different strategies to strengthen family life and prevent further

breakdown. This article first outlines some of the literature concerning the impact of divorce on children, then uses data from the Australian Living Standards Study, conducted by the Australian Institute of Family Studies, to compare the well being of adolescent children and their parents in five family forms: intact families, stepfather families, stepmother families, sole mother families and sole father families.



### Fault in divorce

**Carmichael, G.A., Webster, A. & McDonald, P. (1996), *Divorce Australian Style: A Demographic Analysis, Research School of Social Sciences, Australian National University, Canberra, 42p (Working papers in demography no. 61).***

With a recent administrative decision having seriously disrupted the database from which divorce trends and patterns in Australia can be routinely monitored, the time is opportune to take stock of the country's divorce experience. This paper attempts to do this by examining marriage duration specific proportions divorcing and cumulative rates of divorce calculated for both annual synthetic and real first marriage, remarriage and total marriage cohorts. The response to the introduction of 'no fault' divorce in 1976 is demonstrated, and the subsequent emergence of new equilibria in levels of divorce to given marriage durations which seem to render cross sectional cumulative divorce rates in the mid 1990s good predictors of the ultimate experience of contemporary marriage cohorts is traced. While remarriages following divorce are shown to have always been more susceptible to dissolution

than first marriages, the latter are shown to have dramatically narrowed the gap following the re evaluation of normative sanctions against divorce which both stimulated and was stimulated by 'no fault' legislation. Reasons for the dramatically higher divorce rates in Australia in the last two decades are discussed, as is the failure of the adoption of objectively sounder mate selection and marriage timing practices since the early 1970s to have a more noticeable impact on divorce rates. (Author abstract)

**Francis, B. (1996), 'Once were warriors – now are ferals: the devastating impact of divorce', *Endeavour Forum, no. 82, March, pp. 4-6.***

The author argues that emerging is a new class of men who are 'ferals' and profoundly alienated by society. In the United States, the combination of affirmative action, no-fault divorce, and welfare payments to single mothers have created a kind of 'spurious matriarchy' and the role of fathers and husbands has been taken over by a benevolent government. The effect on children and women of this phenomena is discussed. The plight of fathers denied access to their children is considered. The author advocates the return of fault in cases where the divorce is contested. She also favours a five year long separation before the granting of divorce rather than the current one year. Recent proposed amendments to the Family Law Act in relation to domestic violence are criticised.

**Grace, D. (1998), 'Marriage: alternative legal frameworks', *Australian Family, vol. 19, no. 3, October, pp. 21-28.***

This article examines divorce statistics in Australia and argues that whilst change in societal values has in part changed the perception of the

permanent nature of marriage, the introduction of the no fault divorce with the 1975 Family Law Act has also contributed to this view. Issues discussed include: the cost of divorce; outline of marriage education programs and changes to divorce laws in Canada, New Zealand, Great Britain, and the United States including Arizona and Florida; stepfamilies; relationships education programs for high school students; marriage rates; the link between health care and marriage education; and the Christian view of marriage.

Hawkins, A.J. (1999), 'Perspectives on covenant marriage: an analysis of the US developments', *Marriage, Family & Society Issues*, no. 3, Spring/Summer, pp. 14-20.

A covenant marriage is a legally recognised form of marriage that differs from the common no-fault divorce marriage which allows either spouse to terminate the marriage at any time for virtually any reason. This article discusses the covenant marriage movement in the United States and why many American states are considering passing covenant marriage legislation. Critiques of covenant marriage are briefly addressed and reasons why covenant marriage may be a positive way to stabilise marriages are identified.

Sifris, A. (1998), 'Marriage at the crossroads', *Australian Family Lawyer*, vol. 12, no. 4, Winter, pp. 11-15.

In an exploration of the decline in the institution of marriage, this article discusses the history of marriage, divorce, and cohabitation and describes the impact of the Family Law Act 1975 and no fault divorce, arguing that this marked the beginning of the undermining of marriage. Moves to regulate de facto relationships in the states and territories are outlined and the changes in community attitudes are identified, as revealed by the

results of a survey by the Australian Institute of Family Studies on de facto relationships, as well as by legislative responses to divorce and ex nuptial children.



### Financial aspects of divorce

Dewar, J., Sheehan, G. & Hughes, J. (1999), *Superannuation and Divorce in Australia*, Australian Institute of Family Studies, Melbourne, 39p, (Working paper no. 18). Online: <http://www.aifs.org.au/institute/pubs/dewar.html>.

This working paper reports on the results of the Australian Divorce Transition Survey in so far as it relates to the superannuation assets of divorcing couples. The paper begins by setting the context of the research, and concentrates in particular on the growing importance of superannuation as a component of family wealth, the uneven distribution of superannuation entitlements between men and women and the limits to the powers of the Family Court in dealing directly with superannuation assets. The paper then sets out the findings from the Australian Divorce Transitions Survey data concerning the incidence of superannuation amongst the couples surveyed, how much couples knew about their own and their partner's superannuation, the absolute and relative importance of superannuation as a family asset and the way in which superannuation was taken into account, if at all, on divorce. The data were also analysed to test for the possible effects of an equal split of superannuation assets on divorce, as proposed in the Federal government's position paper *Superannuation and Family Law* (1998). The

paper concludes by drawing out some of the implications of the research findings, and by offering some thoughts on the possible implications of the government proposals. In particular, it is suggested that while splitting superannuation may offer an advance for some women over current practice, it may lead to a worsening of the post-divorce financial position of others. (Author abstract)

Fehlberg, B. & Smyth, B. (1999), 'Binding pre-marital agreements: will they help?', *Family Matters*, no. 53, Winter, pp. 55-58.

In Australia, unlike most other countries, premarital agreements, or financial agreements entered into before marriage, are not legally effective on divorce. Couples cannot enter binding agreements about their financial affairs until after their marriage has broken down. The Federal Government proposes to change this situation. In this article the authors question whether binding agreements will help divorcing couples. Recent data from the Australian Institute of Family Studies' Australian Divorce Transitions Project sheds some light on this important question. After briefly outlining the current legal position and policy issues, the findings from these data are presented, and then considered in the context of current proposals for reform.

Lang, A. (1998), 'High Court wipes out sexually transmitted debt', *Law Society Journal*, vol. 36, no. 8, September, pp. 50-53. Online: [http://lawsocnsw.asn.au/resources/ljsj/archive/sep1998/50\\_1.html](http://lawsocnsw.asn.au/resources/ljsj/archive/sep1998/50_1.html).

A recent High Court decision (*Garcia v National Australia Bank Ltd*, August 1998) has found that, because a creditor failed to ensure that a wife received independent professional advice before signing as guarantor for a secured loan for her husband,

she escaped liability altogether. Fifty years after the case of *Yerkey v Jones*, which found grounds for wiping out wives' guarantees for their husbands debts, the Court has found that some things in society do not change. A significant number of women in Australia still leave many business and other decisions to their spouses and partners, with the result that they are inadequately briefed about their financial commitments. (Journal abstract)

Laurence, M. (1999), 'Divorce law, millennium style', *Business Review Weekly*, vol. 21, no. 23, June 18, pp. 82-87. Online: <http://www.brw.com.au/newsadmin/stories/brw/19990618/2682.htm>.

Predictions are made in this article that financial agreements, signed before marriage, during marriage or upon divorce will no longer be the preserve of the wealthy, due to proposed federal government reforms to matrimonial property law, including the removal of the Family Court's power to override financial agreements between couples, thus curtailing the Family Court's power to divide property and superannuation upon divorce if couples cannot agree. Case studies are provided to illustrate how property and assets would be divided under the new law. Issues raised by a discussion paper from the Attorney-General's Department, 'Property and Family Law: Options for change', are discussed and strategies to get the most from divorce property splits are outlined. The results of a study by the Australian Institute of Family Studies, 'Superannuation and Divorce in Australia', are examined and how the Family Court deals with a property split under existing law is explained.

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