

De Facto Relationships bill heading in wrong direction

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A Parliamentary Select Committee is currently considering the De Facto Relationships (Property) Bill. If enacted, the Bill will see de facto couples treated essentially the same as married couples upon dissolution of their relationships. The Courts will be obliged to enforce a 50-50 split of any relationship property.

The Bill raises some obvious questions. For example, why should the taxpayer be formally committed to providing resources for couples to resolve their property disputes, when those couples have at no time made any formal commitment to each other? Why is the Government creating legal rights detached from any responsibilities, at the same time as it is promoting a code of social and family responsibility? Most importantly, why is Government elevating the status of a social arrangement that is detrimental to stable family life in New Zealand?

International research shows quite clearly that de facto relationships are inherently more unstable than marriage. A survey undertaken in the United Kingdom¹ found cohabitation had a split-up rate four times that of marriage. The average life of such relationships was found to be only two and a half years. In Sweden where liberal sexual morality has held sway for years, a similar survey found cohabitation was still not nearly as stable as marriage.² In Australia 75% of de facto unions end within four years.³

The instability generated by de facto arrangements is carried over when couples go on to make the formal commitment of marriage. Contrary to the common belief that living together is useful as a kind of trial marriage, the evidence shows that it is actually a set-up for failure. One U.S. study found that rather than helping to secure later happiness, cohabitation is related to lower levels of marital interaction, and higher levels of marital

disagreement and marital instability.⁴ The U.K. survey showed that cohabiting couples who went on to marry were 50% more likely to be divorced within five years, than those who had not first lived together. Canadian and Australian research has confirmed these

results.⁵ The evidence is now quite conclusive is that pre-marital cohabitation significantly raises the risk of subsequent marriage failure.

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The instability fostered by the increasing trend to de facto partnerships is not something the Government can ignore. Relationship and family breakdown are personal tragedies for those involved. They also have serious social and economic implications. Poverty, suicide, youth offending, and poor health and

education outcomes are all strongly associated with family dysfunction.⁶ The costs of this to both the public and the private sector in New Zealand are accounted in billions of dollars per annum.⁷

Given this, it is hard to see why the Government is introducing a Bill that will elevate the status of de facto partnerships and hence encourage more couples to take the path of no formal commitment. As one Harvard legal scholar has said, the symbols and visions projected by public policies are highly influential in forging national aspirations and public morality.⁸ Because of this, governments need to be careful as to what "stories they tell" in the policies and legislation they implement.

Unfortunately the story told by the De Facto Bill will be that our leaders see no real difference between the institution of marriage and couples simply living together. It is true that the Bill does not offer exactly the same regime for de facto couples as currently applies for married couples. However the broad thrust of the Bill mirrors the Matrimonial Property Act (as it is intended to do) and the few differences of detail are unlikely to alter the overall perception that would be created by its enactment. Put simply, the passage of this legislation will inevitably send a message to New Zealand couples that the Government doesn't care whether they are married or not.

This is clearly not the message our country needs to be hearing from Government. On the contrary, our political leaders should be making every effort to affirm marriage and the commitment it represents as foundational to the social stability and well-being of New Zealand society.

Across the Tasman M.P.s are already moving in this direction. A recent report⁹ by the Australian Parliamentary Committee on Legal and Constitutional Affairs looked frankly at the whole issue of marriage and family breakdown. It found that negative attitudes towards marriage, and the trend to cohabitation were significant factors in raising the rate of family disintegration in Australia. It also concluded that a national strategy was required for strengthening the institution of marriage, and offered no less than fifty-five recommendations to get the ball rolling. These included such things as vouchers for couples to attend pre-marriage education courses, compulsory registration and training for civil celebrants, reviewing divorce laws and increased funding for research into family breakdown.

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Our own policymakers would do well to read this document. It offers a wealth of scholarly research into the root causes of family disintegration rather than merely window dressing it as increased “diversity”. More importantly, it shows that there are things that can be done by Government to rebuild a culture that values marriage and stable family life. All that is required is the political will.

In contrast the De Facto Relationships (Property) Bill is just another exercise in trying to ameliorate the consequences of family disintegration. Like many others it aims at symptomatic relief, but its lasting impact will be to aggravate the underlying condition. It is time to change direction.

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