ECLIPSE OR COLLIDE?

INTEGRATING PARENT-ONLY CARE AND WORK

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SUMMARY

This thesis explores the interface between parent-only care of young children and labour market participation from a socio-legal perspective. The core of the thesis is a phenomenological exploration of the lived experiences of parent-only carers in Australia in terms of their work choices. Parent-only care means that parents care for their children themselves and do not outsource their care. At the heart of the thesis is a concern to clearly identify and articulate the experience of this group. In light of the very limited literature on parent-only care in the context of workforce participation, it is important to establish a discourse about this phenomenon and to create a conceptual and academic space through research for examining the factors that inhibit or facilitate labour market participation by this group.

The research also seeks to explore certain key assumptions and ideas that can be found in both the literature and in Australian political rhetoric against the reality of the lives of parent-only carers. In terms of its comparison with the literature, the research is used to explore whether the so-called ‘separate spheres’ ideology does, indeed, drive the decisions parent-only carers take. In terms of the rhetoric, the research seeks to explore the reality of ‘choice’ and, if that rhetoric does correspond to the reality, to ascertain the key factors that facilitate or inhibit choice regarding participation in the labour market by parent-only carers of young children.

Taking a socio-legal perspective, this research takes an interdisciplinary approach to understanding law as a social phenomenon and analysing law in its societal, political and cultural context. It considers whether the legal framework can address the restrictions on choice experienced by this group.
STATEMENT OF AUTHORSHIP

Except where reference is made in the text of the thesis, this thesis contains no material published elsewhere or extracted in whole or in part from a thesis submitted for the award of any other degree or diploma.

No other person’s work has been used without due acknowledgement in the main text of the thesis.

The thesis has not been submitted for the award of any degree or diploma in any other tertiary institution.

All research procedures reported in the thesis were approved by the relevant Ethics Committee.

Signed:

Name: Emma Louise Phillips

Date: 21 May 2013
This thesis is dedicated to my three lovely children, Will, Patrick and Charlie, whose presence in my life has fostered my concern about the issues underpinning this thesis.

It is also dedicated to my wonderful husband Andrew, who has been very much an equal partner to me on our parenting and work journeys.

I would like to express my deepest thanks to my excellent principal supervisor, Prof. Paula Baron, whose unfailing support, belief in this work and insightful intelligence has been invaluable.

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Chapter 1: Introduction

What’s at issue is not the private frolic of flighty women but the clash of two deeply held social norms: the norm of parental care and the ideal-worker norm.¹

This study examines the interface between parent-only care and work in Australia. The research is set within a socio-legal framework. While the meaning of ‘socio-legal’ can vary,² this thesis draws on the understanding of socio-legal scholarship as an interdisciplinary approach to understanding law as a social phenomenon and analysing law in its societal, political and cultural context.³ Socio-legal research embraces both theoretical and empirical analysis, with a diversity of perspectives and methodologies drawn from the humanities and the social sciences disciplines, including history, philosophy, anthropology, sociology, economics, political science, social policy, performance studies and literary studies.⁴ This is a distinctly different approach to other types of legal scholarship such as ‘black letter’ legal scholarship.⁵ This thesis is situated firmly within this socio-legal perspective.

The core of the thesis is a phenomenological exploration of the lived experiences of parent-only carers in terms of their work choices.⁶ This research aims to better

¹ Joan Williams, Unbending Gender: Why Family and Work Conflict and What to Do About It (Oxford University Press, 2000), 85.
⁵ Originally coined by the Pennsylvania Supreme Court in the case of Naglee v Ingersoll (1847) 7 Pa 185, the phrase ‘black letter law’ refers to the basic principles of law that are considered well-established or accepted by a majority of judges in a common law system. This can be contrasted to legal theory, or more unsettled areas of the law.
⁶ The methodological approach of descriptive phenomenology, described in detail in Chapter 2, is a philosophical approach to the study of the human experience of a particular phenomenon.
understand the experiences, problems and desires of parent-only carers. It also seeks to explore certain key assumptions and ideas that can be found in both the literature and in Australian political rhetoric against the reality of the lives of parent-only carers. In terms of its comparison with the literature, the research is used to explore whether the so-called ‘separate spheres’ ideology does, indeed, drive the decisions parent-only carers take. In terms of the rhetoric, the research seeks to explore the reality of ‘choice’ and, if that rhetoric does correspond to the reality, to ascertain the key factors that facilitate or inhibit choice regarding participation in the labour market by parent-only carers of young children.

Parent-only care means that parents care for their children themselves and do not outsource their care. Parent-only care families include nuclear, sole-parent and composite families and those in which both parents, one parent and neither parent are employed. The defining feature is the absence of non-parental care. The thesis distinguishes between primary parenting, where the significant majority of the care is provided by one parent (either a sole parent or one parent in a family) and shift-parenting (where the care is shared more equitably between parents).7

The problem

The concern explored by this research is that, anecdotally, it appears that the sub-group which provides parent-only care for their young children struggles in terms of workforce participation. Difficulty with attaining and maintaining suitable work is a significant obstacle preventing many parents from achieving their desire to provide parent-only care.8 However, to date, the understanding of the phenomenon of parent-only care at the interface of labour market participation is limited and there is no broad public or

7 The meaning of parent-only care will be elaborated on in Chapter 3, which begins the two-chapter exploration of the phenomenon of parent-only care in Australia.
8 As will be discussed, there is a significant body of literature discussing the work-family interface for parents who outsource care of their young children. While there are a number of themes that resonate both with that group and with the parent-only caring group the subject of this research, the issues faced by parent-only carers in terms of labour market participation are exacerbated by the provision of parent-only care and the needs of this group are thus distinct from those of other parents.
politico-legal representation of the needs and rights of this group. The core focus of this thesis lies with documenting and understanding this phenomenon through research; exploring, from a qualitative perspective, the experience of those trying to exercise choice at the cross-road of parent-only care and work.

At the heart of the thesis is a concern to clearly identify and articulate the experience of this group. In light of the very limited literature on parent-only care in the context of workforce participation, it is important to establish a discourse about this phenomenon and to create a conceptual and academic space through research for examining the factors that inhibit or facilitate labour market participation by this group. This is set within a critique of the socio-legal framework, considering whether the legal framework can address the restrictions on choice experienced by this group. As exploratory qualitative research, and not critical theory, the research aim is not to privilege parent-only care over other parenting arrangements, to justify the decisions and circumstances that result in the provision of parent-only care, or to privilege parents who want or need to work over those who do not. Rather, it is simply to give voice to the number of parents in different situations who provide parent-only care for their young children by exploring and describing this phenomenon.⁹

Research reveals a paradox and tension between the strong preference for parental care of young children, held not only by the parents of young children but established as a socio-cultural belief,¹⁰ and the need and desire, on the part of parents, the labour market and the economy, for parents to work. The gravity of the problem is highlighted by the research.¹¹ There are numerous studies that document that the majority of mothers would prefer to care for their young children at home if they could afford to do

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⁹ See Jodie Beneveniste, Woman, work, child: Women talk about balancing work and family (Simon & Schuster, 1998), 2-3, who takes a similar approach in her qualitative research in the work-family field.
¹⁰ See below n 8 – 10.
A large University of Queensland study in 2005 concluded that a significant portion of working mothers would prefer to spend more time at home raising their young children than their financial situation allows. The desire to provide parental care for young children is recognized by federal Parliament. In *Forward with Fairness*, Rudd and Gillard acknowledged: ‘many families want to have a parent provide all or most of the care for a child during the first two years of the child’s life’. The weight of public opinion also favours parental care for young children. These preferences seem unlikely to change imminently. From her qualitative study of the views of Australian youths, Pocock concludes: ‘private familial childcare is likely to remain a strong preference in future households based on the perspectives of young people in our focus groups and parental attitudes in Australia’.

Alongside this documented predominant preference for parent-only care is the reality that children receiving parental care for their first three years of life are in the minority; statistics show that 67 per cent of children under three years of age are in formal

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15 A national survey of attitude towards working mothers showed that 69% of Australian women and men believed mothers of pre-schoolers should be stay-at-home mothers: Anne Summers, *The End of Equality: Work, Babies and Women’s Choices in 21st Century Australia* (Random House, 2003), 66. Researchers MDR Evans and Jonathan Kelley argue that almost 75 per cent of Australian mothers believe mothers should not work outside the home when their children are under 6 and only two per cent think they should work full-time: MDR Evans and Jonathan Kelley, ‘Employment for Mothers of Pre-school Children: Evidence from Australia and twenty-three other nations’ (2001) 9(3) *People and Place* 29; Karen Mitchell, *Careers and Motherhood Challenges and Choices: How to successfully manage your career through pregnancy, birth and motherhood* (McGraw-Hill Australia, 2004), 192-4.

16 Barbara Pocock, *The Labour Market Ate my Babies: Work, Children and a Sustainable Future* (The Federation Press, 2006), 187. These findings were drawn from focus groups with young Australians conducted in late 2003.
childcare, with an average of 14 hours per week spent in care.\textsuperscript{17} Australian Bureau of Statistics’ data reveals the distribution of this statistic over age groups: over one-third of children under one year old, 61% of one year olds, 71% of two year olds and 70.6% of three year olds are in childcare, excluding preschool.\textsuperscript{18}

The driving feature behind the outsourcing of the care of young children is that the norm in Australia is presently a dual income family.\textsuperscript{19} The 2006 Census established that 1.7 million of the 2.3 million Australian families with children had both parents at work, although the Census did not report the ages of the children in those families. The longitudinal study, ‘Growing up in Australia’, conducted by the Australian Institute of Family Studies, reported in 2004 that 25 per cent of mothers had returned to the workforce by the time their children were six months old, 40 per cent by the time their child was one year old, with the trend continuing upwards.\textsuperscript{20} In 2006, the Australian Institute of Family Studies reported that 38% of mothers with an infant were employed, working an average of 20.4 hours per week; a further 10 per cent were on maternity leave.\textsuperscript{21}

At the same time, many parent-only carers, predominantly mothers, who are excluded from the workforce as a direct consequence of their parenting responsibilities, would prefer (or have the financial imperative) to be working if they were able to do so without ceasing to provide parent-only care. Summers documents that in 2002, 164,500

\textsuperscript{17} NATSEM, ‘Honey, I calculated the kids . . . it’s $537,000: Australian child costs in 2007’ (2007) 18 AMP.NATSEM Income and Wealth Report Issue, 3.
\textsuperscript{18} ABS Cat No 4402.0, 2005: 14.
Australian mothers would have preferred to participate in paid employment save for their caring responsibilities for young children.\(^{22}\) That caring responsibilities preclude such mothers from workforce participation is concerning, particularly in the context of a nation presently experiencing a skills shortage and the ‘brain drain’ associated with the loss of highly educated professionals from the labour market to bear and raise children, many of whom never return.\(^{23}\) The contribution parent-only carers can make to the workforce and to the economy is significant.\(^{24}\)

The potential exclusion of a significant subset from the workforce as a consequence of work and parenting conflict has significant social and economic ramifications. The desirability of fostering increased labour market participation by parents is reflected by the contemporary heightened corporate interest in work and family issues, driven not only by the need to retain workers but by the need for workers with the flexibility to meet collectively the diverse, ever expanding needs posed by globalization, as well as growing awareness that issues that arise at the work-family juncture significantly impact on corporate productivity.\(^{25}\) The economic advantages of increasing the proportion of the population actively involved in the labour market are widely recognized amongst OECD countries.\(^{26}\) The largely untapped potential of increasing the workforce

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\(^{22}\) Summers, above n 15, 59.
\(^{23}\) Berns provides an example of this in the legal industry, where there is a 50 per cent dropout rate of lawyers at the five year mark: Sandra Berns, *Women Going Backwards: Law and Change in a Family Unfriendly Society* (Ashgate, 2003). This issue is oft discussed in the popular press, see for example ABC news 11 April 2011.
\(^{24}\) It is exemplified by the many successful home-based businesses established by parent-only carers otherwise excluded from the labour market: Williams, above n 1, 83.
\(^{26}\) Barbara Pocock, ‘Work Life “Balance” in Australia: Limited progress, dim prospects’ (2005) 43(2) *Asia Pacific Journal of Human Resources* 198, 202; Anne Manne, ‘Are children worth it?’ *Life Matters*, Radio National, 18 November 2010. Economists have assessed the benefits of increased involvement of women in the workforce. In Sweden, an economist calculated that the national product and income would be increased by about half if women were as productive and gainfully employed as men and argued Sweden was foregoing almost one-third of the material standard of living that could be achieved if life roles were not differentiated on the basis of sex. In France, an economist argued that the standard of living in France would rise by more than one-third if women were professionally active to the same extent as men: Park,
involvement of mothers is significant.\textsuperscript{27}

Counterbalancing the documented need for workers is the recognised need for parents. Without engaging in the polarities of the fertility debate, the argument that bearing and raising the next generation is socially necessary work has validity.\textsuperscript{28} In this context, the treatment of parents, particularly parent-only carers, has important implications for future generations. The effect of national differences in family friendliness in terms of working conditions\textsuperscript{29} and care regimes\textsuperscript{30} is recorded in the literature, with the sensitivity of fertility rates to variations in economic and social policies noted.\textsuperscript{31}

The literature

The literature suggests at least two explanations for the ongoing tensions between childcare and employment. These explanations are: the influence of a socially constructed separation of the spheres of work and family life commonly known as the ‘separate spheres’ ideology; and the rhetoric of ‘choice’.


\textsuperscript{28} Williams, above n 1, 60; Pocock, above n 16, 4. As Cannold argues, children are a ‘public good, a direct, substantial and meaningful contribution to the future’: Lesley Cannold, \textit{What, No Baby? Why Women are Losing the Freedom to Mother, and How They Can Get it Back} (Curtin University Books, 2005), 302-3.

\textsuperscript{29} Cannold, above n 28, 44-5.


\textsuperscript{31} Australia’s declining fertility has been attributed by some scholars to the ‘family unfriendliness’ of our society: Richenda Gambles, Suzan Lewis and Rhona Rapoport, \textit{The Myth of Work-Life Balance: The Challenge of our time for Men, Women and Societies} (John Wiley & Sons, 2006), 38; Summers, above n 15, 46; Cannold, above n 28, 44-5; Ian Watson, John Buchanan, Iain Campbell and Chris Briggs, \textit{Fragmented Futures: New Challenges in Working Life} (The Federation Press, 2003). Against the proponents of the case for limiting or ceasing human reproduction, Cannold argues that for Western countries, the serious costs of decreasing populations include worker shortages, shrinking tax bases to support an ageing population, a less competitive economy and consequent declining standards of living. Cannold notes that this cannot be over-come by large-scale immigration, even if that idea had popular support, as baby migrants are accompanied by parents and often extended family: Cannold, above n 28, 22.
**Separate spheres ideology**

By the separate spheres ideology, work and parenting are formally separated, both notionally and physically, as detached realms of a parent’s life that may clash and conflict but do not integrate.\(^{32}\) The normative vision created by separate spheres ideology is that a parent will participate in the workforce while outsourcing the care of their child (and often other domestic work such as housework) for the duration of their working time or will take a lengthy break from the workforce to provide parental care for their child for the duration of their child’s early childhood (this often involves severing labour market attachment). Parent-only carers of young children cannot, by definition, be unencumbered workers (also variously called the ‘ideal worker’, the ‘carefree male worker’ and the ‘breadwinner’ in the literature – this terminology is used to describe a stereotype of a worker who is able to offer a significant devotion to his/her working role, working long hours in full-time employment undistracted by caring or other responsibilities).\(^{33}\) There is an inherent tension between the very definition of parent-only care and the demands of work roles that align with the separate spheres ideology. It is this inherent tension, a construct of the present socio-legal framework, which is a concern of this research. As Cook asserts:\(^{34}\)

> The question should not be ‘how can everybody have affordable, quality childcare?’ It should be: ‘how... can we best help and support parents who wish to do a mutually satisfying job of mothering and fathering their infants and young children without jeopardizing their own futures?’

The literature suggests that all mainstream ‘solutions’ to the documented problems associated with work-family conflict are grounded on the premise that the separation of work and parenting is inevitable. Solutions are thus aimed at easing the friction and

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\(^{32}\) American scholars such as Williams also refer to the separate spheres ideology as the ideology of ‘domesticity’: Joan Williams, *Reshaping the Work-Family Debate: Why Men and Class Matter* (Harvard University Press, 2010), 4. The development of this ideology and its present manifestation will be considered in detail in Chapter 6.

\(^{33}\) This term, including its historical development and normative establishment in Australian workplace culture, will be discussed at length in Chapter 6.


8
strain that arises at the seams.

The separate spheres phenomenon is well documented in the historical, sociological and philosophical literature. The existence of a separation between the realms of work and parenting was first retrospectively documented in the sociological literature in the mid-twentieth century.\(^{35}\) Historians generally concur that the divisive separation of the realms of home and work emerged during the era of industrialism, concomitant with the birth of capitalism.\(^{36}\) As Fudge and Owens assert, ‘[t]he separation of the home from the market is one of the key characteristics of advanced industrialized economies’.\(^{37}\) Despite that it is a relatively recent phenomenon, the predominant separation of work and family in Australian society is engrained and normalized as part of the status quo. As Williams notes, ‘we still have a workplace perfectly designed for the workforce of the 1960s... [a]ssumptions drawn from separate spheres continue to frame today’s debates about gender, work and family’.\(^{38}\)

In recent decades there has been recognition in the literature of the inter-related effects of the spheres of work and family. This was pioneered by researchers in the 1970s, including Rapoport and Rapoport,\(^{39}\) Kanter\(^{40}\) and Piotrkowski.\(^{41}\) In the face of the

\(^{35}\) See for example the work of Parsons and Bales (1955), discussed in Neal, Chapman, Ingersoll-Dayton, et al, above n 25, 11.
\(^{36}\) It is important to appreciate that the industrial revolution was not an abrupt and clearly defined event. The incremental evolution towards industrialized organization is particularly apparent in England, where the emergence of capitalism can be seen as early as the tenth century. However, it was technological invention and the introduction of heavy machinery and therefore factory-based work in the eighteenth and nineteenth centuries that heralded the beginnings of fundamental change in the labour market. It was these changes that necessitated that workers both leave their homes to perform work and work hours designated by others: Katrina Alford, *Production or Reproduction? An Economic History of Women in Australia, 1788-1850* (Oxford University Press, 1984); Sylvia Ann Hewlett, *A Lesser Life* (Morrow, 1985); Antoinette Burton in Norma Grieve and Patricia Grimshaw (eds), *Australian Women: Feminist Perspectives* (Oxford University Press, 1981); Rosamond Mitchell and Mary Leys, *A History of the English People* (Longmans Green and Co, 1950).
\(^{38}\) Williams, above n 32, 1, 5.
trends of research at that time to ignore the effects of work on family life, they sought to dispel the myth that these separate worlds were independent of each other and could harmoniously co-exist. The contemporary literature has highlighted the disharmony between the separate spheres and established that the inter-relationship between the household and the labour market creates tension.

Concerns about the effects of work-life conflict have accelerated in social and political debate in recent times due to recognition of the effects of such conflict on the socio-political concerns of, in particular, rates of labour market participation (particularly by women), fertility, welfare dependence, quality of care provided by the privatized childcare sector, corporate productivity and the health of the economy. The individual and intra-familial effects of work-life conflict are also the subject of significant concern in the literature and lay commentary.

Documented consequences created by work-family conflict include stress, increased absenteeism, long working hours and reduced ‘personal time’, ‘spillover’ between the spheres of home and work, possibly reduced quality of care for children and the adoption of ‘coping strategies’ (such as precarious work or working below skill-level).

41 Catherine Piotrkowski, Work and the family system: A naturalistic study of working class and lower middle-class families (Free Press, 1979). These theorists are discussed by Spearritt and Edgar, above n 25, 7.
44 Fudge and Owens, above n 37, 14.
45 Note that even the terminology used reinforces separate spheres ideology – by use of the term ‘work-life balance’, a dichotomy between ‘work’ on one hand and ‘life’ on the other is emphasised.
48 Smith, above n 46.
49 Barbara Pocock, The Work/Life Collision: What Work is Doing to Australians and What to Do About It (The Federation Press, 2003); Smith, above n 46.
50 Smith, above n 46.
that have long-term consequences for both the worker and their family.\textsuperscript{51} Pocock reports on the ‘significant externalities that can arise from work-life (im)balance’, both positive and negative. On the positive side, satisfied workers may be happier and more productive, working longer and making a greater public contribution, with improved health (for themselves and their families). However, negative impacts can include adverse physical and mental health outcomes, poorer familial outcomes and diminished work, social and community contribution and participation.\textsuperscript{52}

The literature maintains that a further negative consequence associated with contemporary patterns of paid work is the effects of decreased time and energy for the giving and receipt of care.\textsuperscript{53} Similarly alarming is the potential for the norms and preferences of caring for others to be ‘weakened and wasted’ by economic factors, as Smith forewarns.\textsuperscript{54} Gambles et al argue that working practices modelled around the unencumbered worker are unsustainable.\textsuperscript{55} Pocock similarly notes: ‘... the growing reality is that even the nuclear family, for those who sustain it, cannot – alone – sustain life in the presence of thinned public support and a voracious market’.\textsuperscript{56}

While the focus of the literature on the problems created by the separate spheres model has been predominantly on mothers, there is growing recognition of the adverse effects this model has for men. This is particularly so given the increasingly long hours demanded of workers filling the ‘unencumbered worker’ mould.\textsuperscript{57} As Williams argues, under this model, it is a grey ‘life of hard labor’ for men who simulate the unencumbered worker, with disadvantages for those who don’t.\textsuperscript{58}

\begin{footnotes}
\item[51] Smith, above n 46.
\item[52] Pocock, above n 26, 202.
\item[53] Gambles, Lewis and Rapoport, above n 31, 4.
\item[54] Smith, above n 46, 730.
\item[55] Gambles, Lewis and Rapoport, above n 31, 4.
\item[56] Pocock, above n 16, 37.
\item[57] Australia is an OECD outlier in the proportion of men who are working very long hours. Over 20% of employed men in Australia and US work more than 50 hours per week: Jerry Jacobs and Kathleen Gerson, ‘Who Are the Overworked Americans?’ (1998) 56 Review of Social Economics 442, 449; Smith, above n 46, 697.
\item[58] Williams, above n 1, 59.
\end{footnotes}
with this model has been recorded. Scholars also note the significant benefits for both men and their children of increasing paternal involvement in childcare.

The literature also suggests that the separate spheres model has significant broader socio-economic implications in perpetuating a working underclass through its ripple effects. The outsourcing of domestic work (both childcare and housework) in an economically efficient way that often accompanies the labour market participation of dual income families can result in the delegation of this work to underpaid and unprotected workers.

**The rhetoric of choice**

Individual freedom, autonomy and choice are at the heart of western neo-liberal ideology (also known as economic rationalism), and underpin the Australian economic

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59 Ibid.
61 See for example Masri v Nenny Santoso (2004) 134 IR 184, in which a poorly educated young Indonesian woman brought illegally to Australia to perform a full range of domestic tasks including house and childcare was paid only $5,000 over four years. As Owens et al note, this worker was compensated in the NSW unfair contracts jurisdiction, yet a similar remedy is unavailable in other jurisdictions. Belinda Probert also notes the discrimination that exists in terms of the working opportunities afforded migrant workers: Probert, above n 43, 166-7. A concern with the conditions of domestic workers has been an area of focus for the ILO, culminating in C189 - Domestic Workers Convention, 2011 (No. 189), Convention concerning decent work for domestic workers (Entry into force: 05 Sep 2013).
62 Charles Birch, Life and Work: Challenging Economic Man (UNSW Press, 2003), ix. Major exponents of liberal philosophy include John Stuart Mill (John Stuart Mill, Utilitarianism (Dent & Sons, 1863, 1910); John Stuart Mill, Liberty (Dent & Sons, 1859, 1910); John Stuart Mill, Representative Government (Dent & Sons, 1861, 1910), John Locke and their more recent contemporaries HLA Hart (HLA Hart, The Concept of Law (Clarendon Press, 1961); HLA Hart, Law, Liberty and Morality (Oxford University Press, 1969); HLA Hart, Essays on Jurisprudence (Oxford University Press, 1982) and Ronald Dworkin Ronald Dworkin, Taking Rights Seriously (Harvard University Press, 1977); Ronald Dworkin, Law’s Empire (Fontana, 1986). In On Liberty, a treatise that in part forms the basis of our highly individualistic political and economic framework, Mill proclaimed: ‘[T]he only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others... The only part of the conduct of anyone, for which he is amenable to society, is that which concerns others... Over himself, over his own body and mind, the individual is sovereign’. 
and legal framework. Classic liberalism privileges the freedom of all individuals to choose from the goods and opportunities society has to offer, relying on their own merits and endeavours, with their choices accommodated by the state through application of formal principles of equal treatment. The association of individual choice with outcome means that risk and responsibility lies with individuals, who bear responsibility for their own failures; there is little acceptance of social responsibility for individual hardship. Neo-liberalism emphasises economic progress, with work considered necessary for productivity and productivity necessary for profit (which is valued in an individualistic, rather than collective, way). A strong prerequisite to the exercise of choice is equality, which is considered central to dignified human existence, including, importantly, in the context of work. In a socio-legal context, such notions are statutorily enshrined and articulated in legislation including, relevantly, anti-discrimination and equal opportunities laws.

The neo-liberal privileging of the notion of autonomous choice is of particular relevance to the paradox of the preference for care, but the reality of work that excludes such care. The literature establishes that rather than genuine choice, the reality is that

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63 Dux and Simic, above n 13, 108, 186.
65 Dux and Simic, above n 13, 108, 186.
66 Birch, above n 62.
67 Owens, Riley and Murray, above n 61, 399. Note the distinction, ably explained by Thornton, between equity and equality. While equity is a limited concept, with a particular legal meaning in relation to a legal jurisdiction, and a secondary legal meaning as fairness, equality is a far broader notion: Thornton, above n 64, 21.
69 Owens, Riley and Murray, above n 61, 393.
70 Note that, as discussed in Chapter 9, the federal anti-discrimination legislation in Australia is presently the subject of extensive review. The amendments are aimed at, *inter alia*, consolidating the five existing Commonwealth anti-discrimination acts into a single comprehensive statute, making the laws clearer and more effective and streamlining the complaints procedures. At the point of submission of this thesis, the review remained at the draft discussion stage (the Federal Government is presently considering the results of an Inquiry into the draft legislation conducted by the Senate Legal and Constitutional Affairs Committee) and therefore the legal analysis is unable to critique the laws beyond their present form. See: [http://www.ag.gov.au/Consultations/Pages/ConsolidationofCommonwealthanti-discriminationlaws.aspx](http://www.ag.gov.au/Consultations/Pages/ConsolidationofCommonwealthanti-discriminationlaws.aspx) for more information.
choice at the work/parenting interface is rhetorical rather than real. The ‘rhetoric of choice’ operates to vest parents with a sense that they are able to make rational and informed choices about the ways in which they wish to arrange their life at the work/parenting interface. It operates powerfully to deflect attention away from the constraints on parents’ decision-making\textsuperscript{72} and to designate the problems and tensions at the work/parenting juncture as personal problems. Parents are encouraged to see the conflicts that arise between their work and childrearing desires and responsibilities as personal problems or shortcomings. This situation is exacerbated by the legal system, which remains committed to the values of autonomous choice and individual responsibility while failing to address the broader socio-legal context.

The research methodology

The aims of this research are to gain some insight into the lived experiences of parents at the interface of care and work and, in so doing, to compare these lived experiences to the literature in relation to separate spheres ideology and choice. The aims of the research are operationalised through the research methodology of original qualitative research. The original research is comprised of in-depth, open-ended interviews and a focus group, within the intellectual framework of the qualitative methodological approach of descriptive phenomenology. Descriptive phenomenology involves the exploration of the lived experiences of people in a particular phenomenon\textsuperscript{73} in an open-ended, in-depth way to understand the phenomenon of interest.\textsuperscript{74} Spiegelberg’s explanation of this approach as ‘direct exploration, analysis, and description of


\textsuperscript{73} Max Van Manen, \textit{Researching lived experience: Human science for an action sensitive pedagogy} (State University of New York, 1990); Immy Holloway, \textit{A-Z of Qualitative Research in Healthcare}, 2nd edn (Blackwell Publishing, 2008).

\textsuperscript{74} Contrast this to an approach, most often translated through qualitative research, such as symbolic interactionism, which is interested in understanding humans in relation to their environment: Herbert Blumer, ‘Society as Symbolic Interaction’ in Arnold M Rose, \textit{Human Behavior and Social Process: An Interactionist Approach} (Houghton-Mifflin, 1962); Herbert Blumer, \textit{Symbolic Interactionism: Perspective and Method} (University of California Press, 1969); Pranee Liamputtong and Douglas Ezzy, \textit{Qualitative Research Methods} (Oxford University Press, 2005).
particular phenomena, as free as possible from unexamined presuppositions, aiming at maximum intuitive presentation’ remains authoritative.75 More recently, Holloway 76 and Giorgi and Giorgi 77 have noted the value of descriptive phenomenology to gain insights on a phenomenon from the insider’s subjective perspective. The concern is to grasp the essence and underlying structure of the phenomenon under study.78

This research seeks to draw out the experiences, problems and desires of parent-only carers. It is then examined against the literature to understand whether ‘separate spheres’ ideology does, in fact, drive the decisions parent-only carers take. This original research also seeks to explore the reality of ‘choice’ and, if that rhetoric does correspond to the reality, to ascertain the key factors that facilitate or inhibit choice regarding participation in the labour market by parent-only carers of young children.

The research focus is on the parenting of children during their first three years of life. The study was limited to this duration for three reasons. First, there is a wealth of research that has established the importance of the child’s care and experiences during the first three years of life, with this period recognized in the literature as one in which the needs of the child are different to later periods in their development.79 Second, research has established a direct link between the age of the child and the employment status of his/her parents, particularly the mother.80 It was thus considered appropriate to consider the interface between parent-only care and work in the context of a specific age group of children. Finally, it was important, for pragmatic reasons, to limit the

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75 Herbert Spiegelberg, Doing Phenomenology (Nijhoff, 1975).
76 Holloway, above n 73.
77 Amedeo Giorgi and Barbro Giorgi ‘Phenomenological Psychology’ in Carla Willig and Wendy Rogers (eds), The Sage Handbook of Qualitative Research (Sage, 2008) 165.
research focus to a discrete subgroup.\textsuperscript{81}

**Significance of the research**

The field of work-family research is still in its infancy, only having been recognized as a discrete area of inquiry in the last two decades.\textsuperscript{82} While there has been a significant body of research conducted in this area to date, it has been dominated by quantitative, cross-sectional, horizontal studies.\textsuperscript{83} There has been minimal qualitative inquiry and, to date, there has been no phenomenological exploration of the experience of parent-only carers of young children \textit{vis-á-vis} labour market participation. While there are a few notable exceptions,\textsuperscript{84} the research agenda has also been limited and conservative.\textsuperscript{85}

\textsuperscript{81} As will be discussed in the final chapter, a strong proposal arising from the research is of the need for further research to explore the interface between parent-only care and labour market participation in the context of the parenting of children during different life stages.

\textsuperscript{82} Marcie Pitt-Catsouphes, Ellen Kossek and Stephen Sweet ‘Charting new territory: Advancing multi-disciplinary perspectives, methods, and approaches in the study of work and family’ in Pitt-Catsouphes, Marcie, Ellen Kossek and Stephen Sweet (eds), \textit{The Work and Family Handbook: Multi-Disciplinary Perspectives, Methods, and Approaches} (Lawrence Erlbaum Associates, 2006) 1, 4-5.


\textsuperscript{84} See for example Williams’ work, cited at the beginning of this chapter, which shares a similar concern with this research in its interest in the interface between work and the parent-only care. However, while the focus of my research is on the integration of the realms of work and parenting, Williams’ work does not seek to challenge the structural division between work and parenting that underpins the separate spheres framework. Rather, her vision is that part-time work should be rendered equal to full-time work, so as to enable an equal sharing of parenting. Other key measures she proposes are public supports, in the form of subsidized quality childcare, government-funded parental leave, national health insurance and enhanced worker rights (such as mandated vacation leave and the right to request a flexible schedule). This is different to the focus of this thesis, which lies with challenging the dominance of the separate spheres ideology (although the important and largely untapped potential of shift-parenting that can be facilitated by the adoption of the proposals is noted). Finally, Williams work is situated in the American context and is a meta-analysis of case studies of employers documented in other research; this is methodologically distinct from this research, with its phenomenologically-driven exploration of the work-family interface from the perspectives of workers: Williams, above n 1; Williams, above n 32.

\textsuperscript{85} Still and Williams note that scholars have only recently turned their attention from a focus on voluntary corporate regulation to a broader concern with public policy and law in this area, which has been largely limited to researching paid parental leave and child care subsidies. Other relevant public policy/law areas they note, which they assert have been largely ignored, are working time, tax and benefits, labor market incentives, and discrimination: Mary Still and Joan Williams, ‘A Legal Perspective on Family Issues at Work’, in Marcie Pitt-Catsouphes, Ellen Kossek and Stephen Sweet (eds), \textit{The Work and Family Handbook: Multi-Disciplinary Perspectives, Methods, and Approaches} (Lawrence Erlbaum Associates, 2006), 315, 309.
generally restricted to considering work-family conflict as a women’s issue, and a ‘luxury’ or ‘emotional’ issue at that. Further, much of the research has focused on a particular company or industry and most of the work has not been situated within the Australian context. Importantly, the research to date has failed to question separate spheres ideology, although the resultant work-family conflict is now well documented. The two broad streams identifiable within the existing work-family research have separately considered the impact of work on family life and the impact of family responsibilities on work. This approach reflects the schism between work and family associated with separate spheres ideology.

86 See for example: Anne Manne, *Motherhood: How Should We Care for Our Children?* (Allen & Unwin, 2008). This focus has traditionally problematised employed mothers as the subject of research on the basis that they do not adhere to their traditional role in the male breadwinner-female caregiver mould; this results from the traditional allocation of family work to mothers. The significant growth of the privatized childcare industry has triggered a research focus on infant care decisions, however there is very limited work considering parental perspectives in this regard: For an example of such work, see: Elizabeth Puhn Pungello and Beth Kurtz-Costes, ‘Working women’s selection of care for their infants: a prospective study’ (2000) 49(3) *Family Relations* 245, who found that employment related constraints and maternal beliefs were related to infant care decisions, and that mothers who chose non-parental versus parent-only care differed in how their constraints and beliefs changed over time.

87 The literature has predominantly been concerned with work-life conflict in the context of professionals, trivializing the systemic and all-encompassing nature of the problem to a white collar, luxury or emotional issue, rather than identifying it as a concern that lies at the heart of equality: Rhona Rapoport, Suzan Lewis, Lotte Bailyn, and Richenda Gambles ‘Globalization and the Integration of Work with Personal Life’ in Steven Poelmans (ed), *Work and Family: An International Research Perspective* (Lawrence Erlbaum Associates, 2005) 463, 469.

88 VandenHeuvel above n 42, 5.

89 There is a well-established body of literature on work and family conflict within the contemporary organizational behavioural research stream, originating from the research of Rapoport and Rapoport, Renshaw, Kanter, Pleck and Handy in the late 1960s and 1970s. Marshall’s work in the early 1990s on the mutual impact of employment and family was a turning point in engendering recognition that both work and family compete for time and energy and are therefore in a state of inevitable conflict: Steven Poelmans, M O’Driscoll and B Beham, ‘An Overview of International Research on the Work-Family Interface’ in Steven Poelmans (ed), *Work and Family: An International Research Perspective* (Lawrence Erlbaum Associates, 2005) 3, 5. The increasing movement of women into the labour market has stimulated scholarly interest in new directions. The challenge to the traditional male breadwinner/domestic worker family composition that dual labour market participation has brought has also generated interest by economists in work-family conflict. Labor economists and feminist economists have developed a large body of research focusing on work-family issues, including the factors driving female workforce participation and potential gender discrimination: Robert Drago and Lonnie Golden, ‘The Role of Economics in Work-Family Research’, in Marcie Pitt-Catsouphes, Ellen Kossek and Stephen Sweet (eds), *The Work and Family Handbook: Multi-Disciplinary Perspectives, Methods, and Approaches* (Lawrence Erlbaum Associates, 2006) 267, 267.

90 Pitt-Catsouphes, Kossek and Sweet, above n 82, 2.
The Australian Institute of Family Studies has recognized the ‘vital need to look at the issue of the overlap of work and family in a new light’, with a view to developing greater compatibility between the varying roles individuals hold. 91 Poelmans notes the limits of quantitative research in the work family area and calls ‘for more inter-individual, organizational, cross-cultural, longitudinal, and qualitative studies, which paradoxically offer more depth than do the dominant ones’. 92 Cannold agrees, arguing qualitative studies are crucial in personalizing and explaining trends revealed in large-scale statistical research. 93 The methodological approach taken in this research responds to the calls for a qualitative approach to provide in-depth insight into these areas and furthers the scope of work-family research with its dual focus on integrating the realms of work and family.

**Limitations of the research**

The limitations to this research must be acknowledged. Pragmatic limitations associated with the doctoral work necessitated that enrolment of research participants was in response to an advertisement, with snowballing 94 used as a secondary enrolment method to supplement the original cohort of enrolled participants. This method of enrolment is consistent with established qualitative standards, yet necessarily limits the cultural diversity of participants as it is most likely that only those with fluency in English and the confidence to articulate their views on the topic would volunteer their involvement. Further, while the time commitment was not substantial, 95 it would likely have been a disincentive to involvement for many working parents of young children who are recognized to be time-poor. Further, the participants who voluntarily offered their involvement would likely have had significant concerns which they sought to

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91 VandenHeuvel above n 42, 117.
92 Poelmans, above n 83.
93 Cannold, above n 28, 45.
94 Drawing upon the networks of those who self-identified.
95 The total time required of both individual interview and focus group participants was estimated to be approximately two hours, including appraising the initial advertisement, making initial contact, reading the project information sheet and consent package, the correspondence associated with arranging the interview or focus group time and location and the interview or focus group.
document through their involvement, which may have influenced the data obtained.

While the greatest efforts were made to attain diversity of participants, the sample of interviewees and focus group participants were predominantly middle-class professionals from nuclear families. This is unsurprising, given that this is consistent with the general demographic profile of those seeking to integrate parent-only care and work. In Australia, as in Europe, higher education levels positively correlate with workforce participation rates; ‘working mothers’ with an infant are most commonly professionals. As will be discussed in the concluding chapter, there is a need for further research exploring the experiences of parent-only carers who are not socio-economically well positioned or highly educated, as the research indicates that these factors have a significant impact on their choices at the interface of parent-only care and labour market participation. Further, despite that the focus of this thesis is on parent-only caring by mothers and fathers, the research participants, consistent with demographic trends, were all mothers. By documenting the findings of these participants, this thesis does not seek to privilege mothering over other forms of primary care-giving for children that can meet the fundamental needs of young children identified in the literature; to the contrary, the benefits of shift-parenting whereby parenting is shared between mother and father are discussed at length in Chapter 3. The understanding of the phenomenon of parent-only care would be greatly enriched by hearing the voices of the fathers who provide such care, as well as the voices of parents from non-nuclear family compositions.

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96 European research has found that mothers who returned to work earliest after their first child were highly educated, cohabiting and had delayed child bearing; those who spent most time out of employment were those who had started childbearing earlier, were living without a partner and had no educational qualifications: S Dex and J Joshi, ‘Careers and Motherhood: Policies for Compatibility’ (1999) 23 Cambridge Journal of Economics 641, 643.

97 Baxter, above n 80.

98 Baxter and Gray, above n 21, 35.

Overview of the thesis

This thesis is structured into three main parts. After outlining the research methodology (Chapter 2), the first part (Chapters 3 through 5) involves mapping the phenomenon of parent-only care as it interfaces with work and presenting the empirical findings on parent-only care, labour market involvement and their intersection. Chapter 3 focuses on the parenting realm of the work-parenting matrix and presents the findings of the empirical research on the phenomenon of parent-only care, set within the context of insights from the literature. In giving voice to this phenomenon, this chapter documents participants’ insights into the core features of parent-only care, enhanced by their perspectives on the motivation for providing parent-only care for their young children.

Central to an understanding of parent-only care is the desire by such parents to not outsource the care of their children – this is the very definition of parent-only care. Chapter 4 explores the participants’ perceptions of the alternatives to parental care, grounded in the literature on parenting, child development and childcare. It discusses the different Australian childcare models, including informal care arrangements (where care is provided by a member of the extended family network).

Having considered the parenting side of the separate spheres phenomenon, Chapter 5 considers the other realm of the phenomenon – work, presenting the empirical findings on the meaning and importance of work for parent-only carers. The reasons why work is important for parent-only carers is first considered, including the financial and non-fiscal benefits. Some of the consequences reported by the research participants, as well as those documented in the literature, associated with the inability to attain and maintain appropriate employment are then discussed, including difficulties adjusting to being outside the workforce, career sacrifice, fears of severing work ties and guilt. This chapter concludes the first section of the thesis, which documents the phenomenon of parent-only care as it interfaces with work.

The thesis then (Chapters 6 – 9) situates the phenomenon of parent-only care at the
interface with work within a broader socio-legal framework. Chapter 6 explores the inter-disciplinary literature pertaining to the historical and contemporary development of work and parenting roles and their segregation in terms of separate spheres ideology to argue that current work and parenting norms are socially constructed and contingent. This is relevant in light of the empirical findings, discussed by this chapter, that the most significant barrier to labour market participation for parent-only carers is that of mindsets and preconceptions. Chapter 6 argues that the interface between work and parenting is shaped by many variable dynamics, as opposed to any essentialist truths about the nature of women, men, work and human social organization. The metaphor of ‘regulatory space’ is used as a framework device for understanding the way in which regulatory power drives the privileging of particular viewpoints, and the marginalization of others, at particular times. To enrich the understanding of this model, this chapter discusses the historical evolution of the separate spheres model and its key actors, the unencumbered worker and the domestic support worker. The chapter concludes by arguing that understanding the socially constructed and contingent nature of present dominant ways of defining work and parenting, and that current work and parenting norms are fluid and not fixed, leads to recognition of the potential for significant structural change.

Chapter 7 presents the empirical findings on the notion of choice at the interface of parent-only care and work, reflecting upon the illusory nature of the presumption that individuals exercise autonomous choice at the work-parenting juncture and considering the relevance of choice as an equality issue. This chapter argues that the rhetoric of choice is propagated to mask the lack of real choice available to parents, particularly parent-only carers, in terms of work. This rhetoric powerfully deflects attention from the systemic, structural nature of the problems inherent in the work-parenting interface and personalises difficulties as individual issues. This has significant repercussions for parent-only carers and is a primary obstacle marring progress in this area.

Chapter 8 commences the process of engaging directly with a critique of the industrial
and legal framework, focusing on the core industrial measures designed to prevent or minimise the conflict and clash that is recognized to arise at the work/parenting juncture. Such measures include parental leave, flexible or ‘family-friendly’ working arrangements and non-standard work. The chapter discusses each of these measures in turn and critiques their utility as ‘solutions’ for parent-only carers of young children.

While Chapter 8 focuses on the industrial measures designed to prevent conflict, Chapter 9 considers the role of the law in translating the neo-liberal concepts of autonomous choice and equality into practice at the coalface of work for parent-only carers. In light of the empirical findings presented earlier in this thesis that a significant majority of parent-only carers do not perceive that they experience equality at the point of entry to or within the labour market, and that they lack real work choices, this chapter considers the reasons, in terms of the legal framework in Australia, for this. It explores the protections offered by labour and anti-discrimination law and considers whether these laws afford adequate protection to parent-only carers in the workplace. At the heart of this chapter’s argument is that the broad, weak and negatively-couched laws in the anti-discrimination and equal opportunities jurisdiction, which focus on formal rather than substantive equality, rely upon an individual complaints-based system of enforcement and fail to adequately compensate victims or deter offenders, is not an adequate regulatory vehicle for the achievement of equality. The chapter closes by arguing that reliance on the law to secure equality for parent-only carers in the labour market is inadequate and that a broader, socio-legal response is needed.

Note that this thesis uses the terminology of ‘worker’, rather than distinguishing between ‘employees’ and ‘independent contractors’ and other worker statuses. This is consistent with the proposition advanced by Owens et al that, in response to the

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100 Note that the term ‘family-friendly’ is presently the subject of debate, particularly in feminist theory, given the lack of unanimity on what constitutes a ‘family’. As Spearritt and Edgar state: ‘Recognition of the diversity of families doubtlessly enriches our understanding of work-family interaction. Some critics have called for a uniform definition in research that is used for policy-making’: see for example Spearritt and Edgar, above n 25, 11.

101 For a discussion of these empirical findings, see Chapters 5, 6 and 7.

102 These findings are outlined and discussed in Chapter 7.
diversity of workers in the global era and the problems associated with the traditional employee/independent contractor dichotomy, the complexity of workplace arrangements should be acknowledged and the ‘worker’ made the new subject for the law of work.103

The final section (Chapter 10) of the thesis develops a trilogy of proposals for moving towards the integration of work and parenting, to address the marginalization of parent-only carers from and within the workforce that is documented by the first part of the thesis. Chapter 10 develops proposals for moving towards the integration of work and parenting, drawn from participants’ insights and from the socio-legal analysis and literature review. The chapter advances a three-pronged proposal which involves the development of a new work paradigm that embraces the possibilities for productive output offered in this era of globalization and technological advancement; the need for a reduction in the scope of the ‘standard’ working week and a move away from the demarcation of work into standard and non-standard work, with the associated lack of protections and securities attached to the latter; and the desirability for the development of a more sophisticated discourse on children and parenting at the interface with work (note that, while the term ‘integration’ is utilised in this research as the basis for the proposals outlined, some scholars have suggested that this is not the most appropriate terminology.104 Integration is preferred in the context of the exploration of the phenomenon of parent-only care at the interface with labour market

103 Owens, Riley and Murray, above n 61, 199-205. It also reflects the increasing judicial flexibility with respect to the labelling of actors within an employment or contracting arrangement: see for example Holli s v Vabu Limited (2001) 207 CLR 21, 50. See also G Davidov, ‘Who is a Worker?’ (2005) 34 Industrial Law Journal 57. As Mitchell and Arup note, there has been a recent shift within labour law from an exclusive focus on employees in the workplace to a more inclusive concern with the rights of workers in the ‘world of work’: Richard Mitchell and Christopher Arup, ‘Labour Law and Labour Market Regulation’ in Christopher Arup, John Howe, R Mitchell, Peter Gahan, Richard Johnstone and A O’Donnell (eds), Labour Law and Labour Market Regulation (The Federation Press, 2006) 3, 4.

104 See for example Gambles et al, who note: ‘When we began our research we used the language of integrating paid work with other parts of life but we encountered some resistance to the term integration. In the context of the growing blurring of boundaries between paid work and other activities, some people prefer to experience paid work and other parts of life in more separated or segregated ways and feel that integration suggests too much overlap. So we began, instead, to talk about harmonizing paid work with other parts of life’: Gambles, Lewis and Rapoport, above n 31, 35.
participation as it is the outcome sought by this group). The final chapter, Chapter 11, provides a summary of the arguments and the original contribution to knowledge this thesis makes and suggests areas for further research inquiry.

Before commencing the process of engaging with the empirical data, the literature and the legal analysis, the next chapter will provide a detailed outline of the methodological approach taken to operationalise the research aims.
Chapter 2: Methodology

Introduction

This chapter will describe the methodology used to conduct the research. As outlined in Chapter 1, the focus of the thesis is with exploring the interface between parent-only care and work; in particular in engaging in a phenomenological exploration of the lived experiences of parent-only carers in terms of their work choices. The research question driving the thesis is: ‘what are the key factors that facilitate or inhibit choice with respect to participation in the labour market by parent-only carers of young children?’

In exploring this question, the following sub-questions arise:

1. What is the phenomenon of parent-only care?
2. Are parent-only carers of young children afforded choice and equality in the labour market in terms of access to work and working conditions?
3. What factors inhibit or enhance choice and/or equality?
4. What is the role of the law as regards the position of parent-only carers in the labour market?

This thesis explores these issues through a socio-legal framework, using empirical qualitative research. The empirical research was conducted to address the lack of extant literature on the phenomenon of parent-only care at the interface with labour market participation. As outlined in the introduction, we know very little about this phenomenon; there is a substantive gap in our knowledge, both in terms of theoretical and empirical understanding. The voice of parent-only carers, particularly as regards their participation in the workforce, has yet to be heard and considered in political debate, legislative development or academic opinion. In such an under-explored area, an exploratory qualitative methodology is appropriate to begin to understand and document relevant issues¹ and gain rich contextual information.² As Creswell advises,

¹ David Krathwohl, Methods of Educational and Social Science Research: An Integrated Approach (Longman, 1993); Immy Holloway, Basic Concepts for Qualitative Research (Blackwell Science, 1997).
the qualitative approach of descriptive phenomenology, taken in this research, is particularly appropriate where little is known about an issue, and so is apposite for exploring this area where there is scant previous research literature.³ A qualitative approach is amenable both to exploring in depth the intricacies of the issue⁴ and considering broader social issues.⁵

This chapter will discuss the empirical research, providing the theoretical background to descriptive phenomenology and justifying its appropriateness as a methodological framework for the exploration of the interface between parent-only care and work. Details of the empirical methodology used within this framework will be provided, which consisted of open-ended, exploratory, in-depth interviews with a purposive sample of research participants and a focus group. Reflexivity will briefly be discussed to explain my perspective as the researcher. The treatment of the interview and focus group data will be outlined, including the transcription, coding, analysis and presentation of the data.

**The empirical research**

The focus of this thesis is on human experience and qualitative research enables those directly experiencing a particular phenomenon to articulate their perspectives.⁶ To understand the phenomenon under consideration, it is necessary to hear the lived experience from those directly involved.

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⁴ See Richenda Gambles, Suzan Lewis and Rhona Rapoport, *The Myth of Work-Life Balance: The Challenge of our time for Men, Women and Societies* (John Wiley & Sons, 2006), 8; David Silverman and Amir Marvasti, *Doing Qualitative Research: A Comprehensive Guide* (Sage, 2008). The authors take a conventional qualitative approach and recommend researchers limit the scope of their research to avoid ‘saying little about a big social issue’.
⁵ Gambles, Lewis and Rapoport, above n 4.
experience of parents who are situated at the crossing point of parent-only care and work. The insights gained can inform the development of an appropriate socio-political response. This pragmatic focus, this phenomenological concern with ‘everyday life and social action’,\(^7\) situates this research well within the work-family field, where researchers are generally united in their practical orientation both as regards the focus of the research and the functional outcomes sought.\(^8\) Gilgun et al have recognized the pertinence of qualitative research methodologies in exploring family experiences.\(^9\) Probert and Murphy adopted a similar research design, comprised of open-ended interviewing and focus groups, when retrospectively interviewing women about their work, family and community experiences.\(^10\) Wharton conducted twenty in-depth interviews in her study of the way women experience their involvement in social reproduction in the spheres of the home and work.\(^11\)

**Descriptive phenomenology**

Qualitative approaches include phenomenology, ethnography, grounded theory, narrative analysis and critical qualitative research.\(^12\) The qualitative approach taken in this research is descriptive phenomenology, stemming from the work of Edmund Husserl and refined in the work of Jean-Paul Satre, Maurice Merleau-Ponty and Martin

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\(^7\) Thomas Schram, *Conceptualizing Qualitative Inquiry* (Merrill Prentice Hall, 2003), 71.
\(^9\) Jane Gilgun, Kerry Daly and Gerald Handel, *Qualitative Methods in Family Research* (Sage, 1992).
\(^10\) They convened two focus group interviews with mainly middle-class women, followed by individual interviews with a purposive sample of women in their 70s and 80s. They used a semi-structured schedule of questions designed to elicit narratives: John Murphy and Belinda Probert, ‘Never Done: The Working Mothers of the 1950s’, in Patricia Grimshaw, John Murphy and Belinda Probert (eds) *Double Shift: Working Mothers and Social Change in Australia* (Circa, 2005), 133, 134.
Phenomenology is a ‘philosophical approach to the study of “phenomena” (appearances) and human experience’. In essence, it focuses on what it means to be human. As Merriam explains, in one sense all qualitative research is phenomenological, being a ‘study of people’s conscious experience of their life-world’.

Descriptive phenomenology involves the exploration of the lived experiences of people in a particular phenomenon (in this case parent-only care as it interfaces with labour market participation) in an open-ended, in-depth way to understand the phenomenon of interest. Spiegelberg’s explanation of this approach is ‘direct exploration, analysis, and description of particular phenomena, as free as possible from unexamined presuppositions, aiming at maximum intuitive presentation’. This explanation remains authoritative. More recently, Holloway and Giorgi and Giorgi have noted the value of descriptive phenomenology to gain insights on a phenomenon from the insider’s subjective perspective. Interpreting and describing experience from the ‘inside’ is methodologically very different to starting from a theoretical construct or explaining

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13 While Merleau-Ponty’s work has been heavily criticized by feminist scholarship for his scant regard to the import of sex and gender on experience and normalizing assumption of prototypically male experiences (see Amy Mullin, *Reconceiving Pregnancy and Childcare: Ethics, Experience, and Reproductive Labor* (Cambridge University Press, 2005), 44), his concept of experience has enduring relevance. For Merleau-Ponty, experience functions as the starting point for analysis and a point against which the ‘vagaries of theory’ can be tested: Mullin, 44.
14 Holloway, above n 6, 179.
15 Holloway, above n 6, 182.
16 Merriam, above n 12, 24, 25.
17 Max Van Manen, *Researching lived experience: Human science for an action sensitive pedagogy* (State University of New York, 1990); Holloway, above n 6.
20 Holloway, above n 6.
22 Maurice Merleau-Ponty, *The Phenomenology of Perception* (Routledge, 2002); Holloway, above n 6, 179.
actions, decisions or patterns from an outside point of view.\textsuperscript{23}

The researcher figuratively ‘brackets’ his or her assumptions and focuses on the phenomena from the participants’ viewpoint,\textsuperscript{24} not affected by prior assumptions, and is thus a co-participant in discovering and documenting the phenomenon.\textsuperscript{25} The concern is to grasp the essence and underlying structure of the phenomenon under study.\textsuperscript{26} Patton explains that phenomenology is based on:

\begin{quote}
... the assumption that there is an essence or essences to shared experience. These essences are the core meanings mutually understood through a phenomenon commonly experienced. The experiences of different people are bracketed, analysed, and compared to identify the essences of the phenomenon, for example, the essence of loneliness, the essence of being a mother, or the essence of being a participant in a particular program. The assumption of essence... becomes the defining characteristic of a purely phenomenological study.\textsuperscript{27}
\end{quote}

An attitude that informs a response to the phenomenon under study, descriptive phenomenology is not a research method in itself; rather it is an intellectual framework for the research, a way of thinking about and exploring the human experience.\textsuperscript{28} The following discussion will outline the method taken to operationalise this approach.

**The methods used in the empirical research**

**In-depth, open-ended, exploratory interviews**

Guided by the phenomenological understanding that an appropriate method for capturing and understanding an experience is in-depth interviews,\textsuperscript{29} 22 open-ended, exploratory interviews were conducted with a purposive sample of parent-only carers of

\textsuperscript{23} Liamputtong and Ezzy, above n 18; Merriam, above n 12; Kerry Daly, *Qualitative Methods for Family Studies and Human Development* (Sage Productions, 2007); Valerie Bergum, *A Child on her Mind: The Experience of Becoming a Mother* (Berge & Garvey, 1997), 5.
\textsuperscript{25} Daly, above n 23; Liamputtong and Ezzy, above n 18; Merriam, above n 12; Schram, above n 7.
\textsuperscript{26} Merriam, above n 12, 23.
\textsuperscript{27} Michael Patton, *Qualitative research and evaluation methods*, 2\textsuperscript{nd} ed (Sage, 2002), 106.
\textsuperscript{28} Holloway, above n 6, 179.
\textsuperscript{29} Liamputtong and Ezzy, above n 18, 42; Steiner Kvale, *Doing Interviews*, 2\textsuperscript{nd} ed (Sage, 2007); Merriam, above n 12, 25; Holloway, above n 6.
young children (birth to three years of age). The value of this method of data collection is well established. Open-ended interviewing allows the interviewee to share the information they wish, supported by the interest and active listening of the interviewer. Direction and in-depth exploration are fostered by the appropriate use of prompt questions, probing and clarification.

Because of the depth of the research interviews and the richness of the data generated, the sample size in this type of research is generally small – a sample size of between four and 40 participants is usual; larger sample sizes are rarely considered appropriate due to the depth of insight and rich data generated by each interview. A purposive sample of participants is selected for their knowledge or experience of the phenomenon subject to exploration, of which they can inform the researcher. It is not intended that the participants be representative of the general population. Here, participants were purposively enrolled to be interviewed on the basis of meeting the following core research eligibility criteria, developed to enhance the likelihood participants would be able to comment on the issues central to the research and to ensure currency and

33 Holloway, above n 6, 213. Note that other studies have used a similar interview size to explore related qualitative issues. For example, Wharton used 20 in-depth interviews in her exploration of the ways women experience their simultaneous involvement in the two spheres of social reproduction, service work and family life, and the consequences of these experiences for the kinds of unresolved dilemmas women perceive: Wharton, above n 11. McCracken, who emphasizes that when using interviews for research, the guiding principle is ‘less is more’, with the importance placed on working ‘longer, and with greater care, with a few people than more superficially with many of them’: Grant McCracken, The Long Interview: Qualitative Research Methods Series 13 (Sage, 1988).
34 Holloway, above n 6, 213; Margarete Sandelowski, ‘Sample size in qualitative research’ (1995) 18 Research in Nursing and Health 179, 179-183.
1) at the point of enrolment in the research, the participant:
   (a) had at least one young child (aged 36 months or younger); and
   (b) was or was wanting to be a parent-only carer; and
2) at the point of conceiving their child/ren, the participant was working in the labour market in Australia.

Participants were enrolled through a combination of self-identification and snow-balling methods. Advertisements were placed in magazines, newsletters and internet forums likely to attract the attention of participants meeting the criteria, inviting participation in the research. The networks of those participants who self-identified from the advertisements were also a means of enrolling participants; existing participants were asked if they would like to forward details of the study on to any friends or contacts (some participants independently offered to do this).

Sweet at al suggest that a difficulty researching issues in this area is that the workplace and the family are cultural institutions that ‘tend towards privacy rather than disclosure’, with a challenge for work-family researchers being to convince potential participants to take time from their busy schedules and open their lives and experiences for study. This difficulty was not experienced in this research, with a healthy response

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37 Advertisements were placed in the following sources: ‘Your Playgroup’, a monthly electronic newsletter published by Playgroup Queensland, a leading state childhood organization with over 17 000 members; ‘Connect’, the quarterly newsletter published by the C&K Pre-Schooling Professionals Association, a leading pre-schooling professionals association with approximately 400 centres located throughout rural, regional and metropolitan areas of Queensland; ‘Essence’, the bi-monthly magazine published by the Australian Breastfeeding Association, a national organization with over 17 300 subscribers; and ‘BubHub Pregnancy & Parenting Forum’, Australia’s most comprehensive online pregnancy and parenting portal (information obtained from respective providers websites). Collectively, these publications have a broad and diverse readership.

38 Merriam, above n 12, 78-79; Liamputtong and Ezzy, above n 18, 235-236.

39 Stephen Sweet, Marcie Pitt-Catsouphes and Ellen Kossek, ‘Introduction: How diverse methodologies inform understandings of work and family relations’ in Marcie Pitt-Catsouphes, Ellen Kossek and Stephen
rate of eligible participants to the advertisements. This may be attributable to the topical nature of the issue and the significant ramifications of this issue for the personal lives of parent-only carers. Indeed, many participants noted that there is a pressing need for serious consideration of this issue.

As detailed in Table 1, the enrolled participants represented a diversity of ages (between ages 18 and 44), occupations (including highly educated professionals, knowledge workers, teachers, public servants, clerical workers, hospitality workers and small business owners), employment sectors (public, private, community and self-employed), family sizes (between one and three children), geographical localities (regional, rural and metropolitan), geographical origins (the main country of origin was Australia, but there were also participants from New Zealand, United States, United Kingdom and Papua New Guinea) and socio-economic positioning (registered low income, through middle income to high income families). Only nuclear families were represented. Significantly, the only interviewees were mothers. While this is unsurprising, as it is reflective of the circumstance that mothers comprise the significant majority of parent-only carers at present, it would be valuable to extend the research to incorporate the voice of father parent-only carers. The advertising and enrolment mechanisms for this study meant that the final composition of research participants was determined by those who self-identified or were within the network of those self-identified. The majority of both the individual interview (17 of the 22) and focus group (five of the seven) participants were providing parent-only care at the time of their involvement in the research. However, the advertisements invited both those providing parent-only care and those wanting to provide parent-only care to participate, to broaden the resultant understanding of the phenomenon.


40 A total of 22 interviews were conducted and this was considered an adequate response rate given that data saturation was reached before the completion of the scheduled interviews, as discussed below. A further three expressions of interest were received, however on each occasion the criteria for participation was not met and so was not included.

41 Matthew Gray and Diana Smart, ‘Growing up in Australia: the Longitudinal Study of Australian Children is now walking and talking’ (2008) 79 Family Matters, 5.
It must be noted that there is the potential for a bias in the findings insofar as the self-
identification method of enrolment meant that it was most likely that those who had
particular issues relevant to the topic volunteered to participate in the research.
However, as the focus of the research is on the identification and understanding of the
factors that facilitate or inhibit participation in the labour market from the perspective
of parent-only carers, the research interest lies in the articulation of issues identified by
those considered to be marginalised or supported by the present framework.

Table 1 – Demographics of participants

<table>
<thead>
<tr>
<th>Participant #</th>
<th>Age</th>
<th>Occupation</th>
<th>Sector</th>
<th>Number of children</th>
<th>Marital status</th>
<th>Geographical locality</th>
<th>Currently working/studying?</th>
<th>Currently providing parent-only care</th>
<th>Country of origin</th>
<th>Socio-economic status</th>
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<td>Y</td>
<td>Aus</td>
<td>Low</td>
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<td>Geographical locality</td>
<td>Currently working/studying?</td>
<td>Currently providing parent-only care</td>
<td>Country of origin</td>
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<td>Metro</td>
<td>Y</td>
<td>N</td>
<td>Aus</td>
<td>High</td>
</tr>
</tbody>
</table>

The participants were drawn from the geographical locality of Queensland, the population of which is ideal for a study of this nature, given the broad distribution of the population across metropolitan, regional and rural localities. The data was collected by telephone interviews. This was a practical decision due to the participants’ distribution throughout Queensland, to minimise the costs associated with the research.\(^{42}\) The literature has established the validity of telephone interviewing, with few consistent differences in data quality found between in-person and telephone interviews.\(^{43}\) While a disadvantage associated with telephone interviewing is that it removes the ability to physically assess the interviewee’s affect, confidentiality is heightened as a result of the partial anonymity telephone interviewing provides for the interviewee which offers the

\(^{42}\) Kirsch and Brandt, above n 32, 78 – 82.

\(^{43}\) Groves, above n 31; P Lavrakas, ‘Methods for sampling and interviewing in telephone surveys’ in L Bickman and D Rog (eds), *Handbook of applied social research methods* (Sage, 1998), 429; Kirsch and Brandt, above n 32, 78.
potential for the generation of richer data.\textsuperscript{44} I conducted all of the interviews. Further details of my position are as follows.

**Reflexivity – the voice of the author**

Defined by Finlay as ‘thoughtful, conscious self-awareness’ encompassing ‘continual evaluation of subjective responses, intersubjective dynamics, and the research process itself’,\textsuperscript{45} reflexivity is now considered integral for academic rigour in qualitative research.\textsuperscript{46} Mayan explains the aim of reflexivity as follows:

> Qualitative research is ... an act of engagement. The researcher affects the setting and the setting affects the researcher... Research is not free-standing. There are many possible agendas; it is important to know yours and what consistently constitutes it. It is important to seek to know but at the same time situate this knowing as tenuous. This is the point of reflexivity.\textsuperscript{47}

Knowledge is not value-neutral and qualitative research is not based on ‘disinterested knowledge’.\textsuperscript{48} Implicit in the conduct of such research is that the researcher will bring assumptions. Exploring researcher-held assumptions and experiences deepens consideration of the experience and brings awareness of personal prejudices and views.\textsuperscript{49} Once identified and explored, the researcher can then ‘bracket’ or suspend these assumptions and transfer the focus to the participants’ perspectives of the

\textsuperscript{44} Kirsch and Brandt, above n 32, 78.
\textsuperscript{45} Linda Finlay, ‘Outing the researcher: The provenance, process, and practice of reflexivity’ (2002) 12 *Qualitative Health Research* 531, 532.
\textsuperscript{46} The relevance of reflexivity in the context of research on the position of women in society has been noted by Encel and Campbell: Solomon Encel and Dorothy Campbell, *Out of the Doll’s House: Women in the Public Sphere* (Longman Cheshire Pty Limited, 1991, 12-13.
\textsuperscript{47} Maria Mayan, *Essentials of Qualitative Inquiry* (Left Coast Press, 2009), 134, 138.
\textsuperscript{49} Merriam, above n 12, 25-26.
phenomena.\textsuperscript{50} This ensures that such preconceptions do not obstruct the process of seeing and intuiting the phenomenon.\textsuperscript{51}

My perspective as a researcher is shaped in part by my professional background as a solicitor specializing in employment, industrial relations and anti-discrimination law. Through this work, I gained experience counseling and advising clients (individuals, trade unions, organizations and corporate entities) on the existence and effect of laws relevant to industrial, human rights and equal opportunities issues and advocating for them before industrial and anti-discrimination commissions, courts and tribunals. I was privy to many stories about how parenting and work intersect; the human experience of the application of industrial and anti-discrimination laws. Through this work, I formed assumptions about the nature of parenting choices and work choices.

My perspective is also shaped by my personal background as both a mother of young children and a worker with a virtually unbroken connection to the labour market since attaining legal working age. I have an ardent interest in the importance of children, the role of parenting in our society, the importance of work and the choices available to parents in terms of their workforce participation. These interests have been fuelled by hearing of the experiences of family, friends and acquaintances seeking to exercise their ‘choices’ in the present milieu.

Cognizant of the background that led me to this research, I took steps to ensure that each participant was able to contribute their own experiences and views to the research as uninfluenced as possible by my prior assumptions. As is customary in research of this nature, my role was akin to that of a ‘co-participant’ in the discovery and documentation of the phenomena studied. The unstructured nature of the interviews, which were commenced after preliminaries with an open-ended invitation for each participant to share their story, initiated this process. It was aided by the fact that

\textsuperscript{50} As Holloway notes, effective bracketing requires that the researcher is candid about the pre-existing assumptions they hold, both to their audience and to themselves: Holloway, above n 6, 180.

\textsuperscript{51} Merriam, above n 12, 25.
participants were invariably articulate and reflective. This may be attributable both to the fact that many participants had given much thought to the topics under discussion over a number of years, as well as that they had organized and prepared their thoughts prior to the interview to ensure they raised all issues that were relevant to them (this process was mentioned by a number of participants). In all interviews the participants eagerly led the discussion. My role was that of active listener, often simply voicing encouragement as unobtrusively as possible (for example, ‘mmm’, ‘sure’, or ‘yes’) to the participant to continue their story. Where appropriate, I introduced relevant issues by way of prompt questions raised at appropriate intervals during each interview. Such direct questions were couched in an open, rather than leading, way to ensure the response was not influenced or scripted by my assumptions. I made a conscious point of never putting my position to the participants and remained anonymous in terms of my philosophical position and personal background. While I directed the conversation at points, this was only to raise issues posited by previous participants or directly stemming from the focus question.

The interviews

The interviews were open-ended, led by asking each participant to share their experience with paid work since their birth of their child/ren. The substantive part of each interview opened with the following focus question: ‘what I’m exploring is the interface between work and parenting. I’m interested to hear of your experience with respect to work since the birth of your child’.

Each participant was invited to share their ‘story’ in their ‘own words’, focusing on issues that were ‘most important’ to them. The interviewing process was guided by Van Manen’s principles of ‘phenomenological reflection’.  

The interviews proceeded at the pace and direction of the interviewee and involved techniques of active listening, probing, reflection, clarification and summarizing of key points. Key tenets of the central

52 Van Manen, above n 17.
research question were explored by way of prompt questions introduced as each interview progressed. Prompt questions included asking for the participant’s view of parent-only care; asking whether the participant perceived there to be a division between work and family life; asking whether that division was considered artificial; asking whether it was considered inherently gendered; whether the participant felt she had real choice to work while providing parent-only care; asking about the considerations that constrain or enable choice in that regard; and asking whether the participant had found ways that enabled her to function both as a parent-only carer and worker. In essence, the data sought to be gathered from the interviews pertained to the meaning of the notion of parent-only care for the research participants and its significance in relation to choice as regards participation in the labour market in Australia.

In accordance with the ‘iterative’ principle of qualitative research, if any significant issues arose in early interviews, I raised and explored these issues by way of prompt questions during later interviews if they were not posited spontaneously by the participants. For example, breastfeeding was an issue that was raised by each of the first five interviewees and therefore it was noted as a significant issue to explore with the remaining research participants. Demographical information (as detailed in Table 1) was collected in the interview.

The interview protocol was piloted with the first two research participants. Due to the open-ended, unstructured design of the interviews, piloting did not involve rigid adherence to a pre-set list of issues; rather, each interview was unique and followed the lead of the interviewee, with prompt questions pertaining to key research concerns raised as they became appropriate and relevant. Through this process, issues incidental to the core research issues that were considered important to the research participants were noted and included as prompt questions to be raised, where relevant, with the subsequent 20 interviewees. The interviews lasted for approximately thirty minutes to one hour.
There were three participants who were interviewed but not included in the research findings (their interviews were not transcribed, coded, analysed or reported in the findings). The reason for this was that, although they were originally enrolled based upon their self-assessment that they met the eligibility criteria for research participation, during the initial stage of the interview it became apparent that they did not meet the eligibility criteria (outlined above). To ensure methodological rigour, their data was excluded from the analysis.

Through the 22 in-depth interviews, a rich and extensive body of data was gathered. The interviews were heterogeneous and generated a wealth of insights into different perspectives on a number of divergent issues. This data was further diversified through the focus group, which will be discussed later in this chapter.

**Transcription, coding and analysis of interview data**

The interviews were digitally audio-recorded and transcribed verbatim. I transcribed each interview, using a digital transcribing machine and typing all text verbatim into a word document (a separate word document was created for each interview). Every word was transcribed, including ‘ums’ and ‘ahs’, and non-verbal language including emphasis, pauses and laughter were also noted.

It is accepted that coding is generally the first step in qualitative data analysis. 53 To facilitate the coding process I used qualitative research software (NVivo8). Through this process, all of the participants’ comments were coded into ‘free nodes’ within a ‘tree node’ structure, whereby files not predictively created are established and organised into relevant themes. Eight ‘parent nodes’ were created to reflect the key themes that emerged from the analysis, each assigned a short, descriptive heading, as follows: ‘research fundamentals’; ‘parent-only care; ‘work’; ‘parent-only care and work’; ‘consequences’; ‘choice’; ‘separate spheres’; and ‘extra narrative’. Within each of these primary groupings, numerous ‘child nodes’ were created and arranged in a hierarchical

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53 Liamputtong and Ezzy, above n 18, 278.
structure as analysis progressed. A total of 84 ‘child nodes’ were created within the eight ‘parent nodes’, and a further 54 sub-nodes created under relevant ‘child node’ headings. The number of sources (participants) and references (statements) varied between the different nodes, ranging from one to 22 sources and one to 37 references.

As Holloway explains, the aim of analysis is phenomenological description, an ‘analytic description of the phenomena not affected by prior assumptions’. 54 Marshall and Rossman note the role of the qualitative researcher in identifying ‘salient, grounded categories of meaning held by the participants in the setting’. 55 Bogdan and Biklen liken the process of qualitative data analysis to a funnel, becoming increasingly directed and specific at the bottom: ‘[t]he qualitative researcher plans to use part of the study to learn what the important questions are. He or she does not assume that enough is known to recognize important concerns before undertaking the research.’ 56 This understanding drove the interviewing approach. The creation of a ‘tree node’ structure to organise the interview data was a fluid dynamic process engaged in to aid in analysis of data, with ‘parent’ and ‘child nodes’ created and arranged as analysis progressed. This is consistent with the use of an informal interview structure, with both interviewing and coding processes designed to ensure that the findings, both in terms of the issues posited and the perspectives provided by participants, were informed to the greatest possible extent by the participants.

Consistent with the literature, both the actual words spoken by participants and the meaning of words used is deemed relevant. This includes changes in tone and the context in which they occurred; the meaning of pauses and silences; the frequency, extensiveness and intensity of certain responses; the vagueness or specificity of

54 Holloway, above n 6, 182.
56 Robert Bogdan and Sari Biklen, Qualitative Research for Education: An Introduction to Theories and Methods, 5th ed (Allyn and Bacon, 1998), 7.
particular statements; and the substantive ideas that overlaid individual remarks.\textsuperscript{57}

The integrity of the coding process was assured by coding all of the interviewer’s and participants’ comments, including digressions and irrelevant dialogue; by creating parent and child node headings that adopted or closely reflected the actual words used by participants; and, where appropriate, by coding appropriate statements into multiple codes to ensure the entirety of meanings were attributed to each response. The de-identified coded data was reviewed by an experienced qualitative researcher with extensive experience in qualitative research software including NVivo and there was agreement on the appropriateness of the coding selection.

Upon completion of the coding with the qualitative software, the data was thematically analysed. I created themes to integrate the many disparate categories of codes together and organize the data for presentation.\textsuperscript{58} The relevance and validity of thematic analysis as a ‘foundational method for qualitative analysis’ has been noted.\textsuperscript{59}

\textit{Data saturation}

Data saturation is one way qualitative researchers determine the number of interviews to conduct. Data saturation is reached when the researcher starts hearing the same information repeatedly.\textsuperscript{60} In this research, I conducted all interviews and was thus ideally positioned to assess the point at which data saturation, considered to be the point at which all issues of primary importance were identified, was reached. This was after the fifteenth in-depth interview. This instinctual assessment was confirmed during

\textsuperscript{57} Richard Kreuger, \textit{Focus groups}, 2nd ed (Sage publications, 1994), 149-151; Janet Smithson, ‘Using focus groups to study work and family’ in Marcie Pitt-Catsoupes, Ellen Kossek and Stephen Sweet (eds), \textit{The Work and Family Handbook: Multi-Disciplinary Perspectives, Methods, and Approaches} (Lawrence Erlbaum Associates, 2006) 435, 440 - 442.
\textsuperscript{58} Mayan, above n 47, 98.
\textsuperscript{60} Mayan, above n 47, 63; Seidman, above n 31; Richard Kreuger, \textit{Analyzing and Reporting Focus Group Results: Focus Group Kit, Volume 6} (Sage, 1998), 58-64.
the coding process, with a scant number of new ‘child nodes’ created during and after the coding of interview 15 and no further issues of primary significance identified.

The focus group

A focus group was convened to extend the purposive data collection across a broader participant base, exploring whether the issues documented in the in-depth interviews resonated with further participants in a group setting. The focus group was used to affirm or contradict the data gathered in the individual interviews. Unlike the individual interviews, which were conducted by telephone, all participants were personally present for the focus group.

A focus group is a group interview\(^6\) or discussion with people with knowledge of the topic.\(^6\) As Patton explains:\(^6\)

> Unlike a series of one-on-one interviews, in a focus group participants get to hear each other’s responses and to make additional comments beyond their own original responses as they hear what other people have to say. However, participants need not agree with each other or reach any kind of consensus. Nor is it necessary for people to disagree. The object is to get high-quality data in a social context where people can consider their own views in the context of the views of others.

The effectiveness of focus groups for exploring work-family issues has been recognised.\(^6\) Like in-depth interviews, focus groups allow participants to express their experiences in their own words, with the resulting theory grounded in the participants’ actual experiences and language.\(^6\) In addition, focus groups allow participants to develop ideas collectively and to establish links between their personal and collective experiences. They are characterized by the unique interactions between participants of

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\(^{62}\) Richard Krueger, Focus groups: A practical guide for applied research, 4\(^{th}\) ed (Sage, 2008); Richard Krueger, above n 60; David Stewart, Shamdasani, Prem and Dennis Rook, Focus groups: Theory and practice, 2\(^{nd}\) ed (Sage, 2006); Smithson, above n 57.

\(^{63}\) Patton, above n 27, 386.


\(^{65}\) Hughes and DuMont, above n 61, 775-803; Smithson, above n 57, 436, 449.
a homogenous group.\textsuperscript{66} The data generated by a focus group has been described as being ‘something in between a natural discussion of a relevant topic and a constrained group interview with set questions’\textsuperscript{67}

Valuable research insights can be gained from the dynamics of the group interaction.\textsuperscript{68} They are particularly helpful in research involving minority groups, as they provide an opportunity for participants to voice and affirm their perspectives and concerns in a close-knit forum.\textsuperscript{69} As focus groups are most successful in discussing issues ‘people could talk about to each other in their everyday lives’,\textsuperscript{70} a focus group was an appropriate and successful method of qualitative data collection for this research.

The literature has established that a focus group exploring work-family issues will typically consist of six to ten participants,\textsuperscript{71} although the advantages of smaller groups (between four and eight persons) in terms of active involvement of all participants and more interesting discussion brought about by the more detailed exploration of individual experiences and themes, has also been recognized.\textsuperscript{72} Here, the focus group was comprised of seven individuals different to those involved in the in-depth interviews, but purposively enrolled to meet the same criteria for participation. The same methods of enrolment (self-identification and snow-balling) used to enroll participants in the individual interviews was used for the focus group. Focus groups are moderated by an interviewer; I moderated this focus group.

From an unstructured guide of key themes recorded in the individual interviews, a list of discussion topics for the focus group was developed. Focus group participants were invited to comment upon, expand or contradict each finding. To achieve this, I raised

\textsuperscript{66} Smithson, above n 57, 435.
\textsuperscript{67} Ibid.
\textsuperscript{68} Morgan, above n 64, cited in Neal, Chapman and Ingersoll-Dayton, et al, above n 64, 241.
\textsuperscript{69} Smithson, above n 57.
\textsuperscript{70} Phil Macnaghten and Greg Myers, ‘Focus groups’ in Clive Seale, et al (eds), \textit{Qualitative research practice} (Sage, 2004), 65, 65
\textsuperscript{71} Smithson, above n 57, 435, 438; Sharon Vaughn, Jeanne Shay Schumm and Jane Sinagub, \textit{Focus Group Interviews in Education and Psychology} (Sage, 1996); Merriam, above n 12, 94.
\textsuperscript{72} Smithson, above n 57.
one key issue at a time, with an assistant transcribing the issue on a whiteboard for the participants’ reference. Comments made by focus group participants were written under the issue on the whiteboard and later transcribed for analysis. Some flexibility and departure from established themes enabled related topics to surface for discussion. In moderating the focus group, I heeded guidelines on managing silences and omissions in the focus group and ensuring the voice of all participants was heard.

Transcription, coding and analysis of focus group data

The focus group was audio-recorded and transcribed verbatim. A second designated assistant recorded detailed notes to aid in the transcription process, helping to trace each speaker. Due to the issues associated with transcribing the recordings (three separate recorders were positioned throughout the room to ensure all participants were able to be adequately recorded), a professional transcribing service was employed. Upon receipt of this transcription, I traced the word document transcription with each audio recording to ensure that the full data was captured in the finalized transcription.

As there was a single transcript of focus group data, it was not considered appropriate to use the same approach to the coding of data as that used for the individual interviews. Rather, the data was manually sorted within a word document into relevant themes and insights. These were then juxtaposed onto the list of themes developed from the coding of the individual interviews.

Presenting the research

In presenting the research, a descriptive, narrative account dominates, with the exact words of participants quoted to give insight into their experience and ensure the integrity of the process of drawing meaning from the participants’ stories. Colaizzi calls this manner of reporting findings ‘perceptual description’, whereby the reader is

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73 Smithson, above n 57, 438, 439.
74 Smithson, above n 57, 440-442.
75 Merriam, above n 12; Liamputtong and Ezzy, above n 18; Mayan, above n 47.
provided with the direct experience of participants. Participant insights are then set within the context of relevant insights from the literature. The presentation of the research findings in the following chapters will adhere to this style. In attributing authorship of quoted text, each participant is numerically denoted (for example, P1 for Participant 1; FGP1 for Focus Group Participant 1). Verbatim dialogue is presented with the participant’s statements preceded or followed by a ‘P’, ‘FGP’ or ‘I’ (Interviewer).

**Ethical approval**

Ethical approval to conduct the research was obtained from the Griffith University Human Research Ethics Committee prior to commencing the research. Approval was also sought and gained from the gatekeepers (through which the advertisements for participants were published) prior to enrolment of participants.

Upon receipt of an expression of interest to participate in the research, each participant was provided with a written project description and consent form, which provided a detailed outline of the research project, the participant’s potential involvement and ethical considerations. Prior to interviewing, I confirmed with each participant that they had read and understood the consent package. Each interviewee was provided with the opportunity to ask questions with respect to this material. Key points, including the voluntariness of participation, the right to terminate the interview at any point, the right to withdraw statements made during the course of the interview and confidentiality, were again verbally outlined prior to the commencement of the interview.

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77 The gatekeepers were Playgroup Queensland, a leading state childhood organization with over 17 000 members; C&K Pre-Schooling Professionals Association, a leading pre-schooling professionals association with approximately 400 centres located throughout rural, regional and metropolitan areas of Queensland; the Australian Breastfeeding Association, a national organization with over 17 300 subscribers; and ‘BubHub Pregnancy & Parenting Forum’, Australia’s most comprehensive online pregnancy and parenting portal.

78 The project description and consent form for individual interview participants is attached as Appendix 2.
In the focus group context, the group dynamics dictated that a guarantee of confidentiality could not be provided. However, a guarantee of confidentiality on the part of the research team was provided and focus group participants were asked to respect the confidences of the other group members and refrain from reporting what was said – it was agreed that the discussion was to stay within the physical walls of the focus group premises. Each focus group member was also provided with a written project description and consent form.

**Conclusion**

In this chapter, the methodological approach taken to operationalise the aim of exploring the phenomenon of parent-only care at the interface with work has been detailed. This chapter has argued that the under-explored nature of the phenomenon of parent-only care necessitated that a qualitative methodological approach be taken to gain in-depth insights into this phenomenon. Qualitative methodological scholars recommend descriptive phenomenology as an appropriate intellectual framework in such a situation. Consistent with good research practice in qualitative methodological work and with research in the work-family arena, the empirical research included in-depth, exploratory, open-ended interviews and a focus group. This chapter provided details of the empirical research, including the specifics of participant enrolment, the interviewing process, the focus group, the transcription, coding and analysis of data and the reporting of findings.

Having outlined the methodological framework for the research, the discussion will now move to present the findings, contextualized within the relevant literature, on the phenomenon of parent-only care. This thesis offers a detailed discussion of this phenomenon, spread across two chapters. Given the dearth of understanding of this phenomenon in the extant literature, developing a discourse on parent-only care makes an important contribution to the literature. An understanding of parent-only care is the

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79 Smithson, above n 57, 439.
80 The project description and consent form for focus group participants is attached as Appendix 3.
first step for this research in exploring the parent-only care and work interface and then situating this phenomenon in the socio-legal context, to enable proposals aimed at enabling choice and facilitating labour market participation by parent-only carers to be developed.
Chapter 3: The phenomenon of parent-only care: Defining the concept

Introduction

This thesis is interested in the interface between parent-only care and work, in particular the key factors that facilitate or inhibit participation in the workforce by parent-only carers of young children. The previous chapter has outlined the details of the methodological approach taken by this thesis to explore this interface. This chapter begins the presentation of the findings on the phenomenon of parent-only care, discussing these findings in the context of the relevant literature.

Parent-only care occurs when parents care for their own children and do not outsource their care to other formal or informal care providers.¹ This can include families in which both parents, one parent or neither parent is employed in the workforce or sole parent families whether the parent is employed or not. The salient feature is the absence of non-parental care. As has been noted,² parent-only care is a phenomenon that has been under-explored by research to date. This is despite the fact that that parent-only care is documented as the strong preference of the majority of Australian families and firmly engrained as a socio-cultural belief.³ The starting point for empirical research in this area is thus to understand the phenomenon of parent-only care, in particular, the core features of parent-only care and the reasons driving parents to care in this way. In this way, the thesis makes an important contribution to knowledge, addressing a gap in the literature on the phenomenon of parent-only care vis-à-vis labour market participation.

This chapter also examines shift-parenting as a means of providing parent-only care.

² See Chapter 1.
³ See Chapter 1.
Shared care – or ‘shift parenting’ as it is sometimes termed in the literature – happens when parents organize their work so that one parent is available to care for the child while the other parent works.\textsuperscript{4} It is a phenomenon unique to dual-employed families (families where both parents work).\textsuperscript{5} As will be discussed, the shift-parenting model offers many benefits for both parents and children, yet there are significant structural problems and obstacles that limit the practicality of shift-parenting as a solution for most families at present.

In exploring the phenomenon of parent-only care, it is imperative to hear from the parents who are caring in this way. Who are the parents providing parent-only care? How do they define their role? What drives their decision to provide parent-only care? These issues formed a significant part of the discussion in the in-depth interviews and focus group. The research findings on these issues will be presented in this chapter. The empirical findings are predominantly drawn from the in-depth interviews, as confirmed, extended and clarified in the focus group. The participants’ insights into the meaning of parent-only care, enriched by an understanding of their motivations for providing parent-only care, will be outlined and then explored within the context of insights from the literature. From the participants’ stories, the different features of parent-only care emerge. The ways in which parent-only caring is achieved by families (predominantly through primary parenting\textsuperscript{6} or shift-parenting\textsuperscript{7}) will also be discussed and distinguished.

\textsuperscript{4} See above n 5.
\textsuperscript{5} Gray, Baxter and Alexander, above n 1, 42.
\textsuperscript{6} Where a sole parent, or one parent in a dual-parent family, assumes the significant bulk of the caring responsibility for the young child. In the literature, the primary parent is the default care provider who provides the ‘continuous [parenting] coverage’: Christena Nippert-Eng, \textit{Home and Work: Negotiating Boundaries Through Everyday Life} (University of Chicago Press, 1996), 207; Ralph LaRossa and Maureen LaRossa, \textit{Transition to Parenthood: How Infants Change Families} (Sage, 1981); Arlie Russell Hochschild, \textit{The Second Shift} (Avon Books, 1997). As Gray et al assert: ‘In considering how families manage with parent-only care then they have a young child but both work, it should not be assumed that this is always facilitated by sharing the child care between both parents. While this occurs in some families, in others it appears that mothers continue to take on the primary role of carer in the family while also taking on paid employment’: Gray, Baxter and Alexander, above n 1, 49.
\textsuperscript{7} Where the caring responsibility is shared between parents. The distinction between primary parenting and shift-parenting is implicit in the understanding of parent-only care derived from the literature – see for example Gray, Baxter and Alexander, above n 1, where shift-parenting is discussed as a means of achieving parent-only care. See also: Ivana La Valle, Sue Arthur, Christine Millward, James Scott with
Finally, the perceived stigma attached to parent-only care in the context of the present socio-political framework will be discussed to enrich and conclude the exploration of this phenomenon.

As descriptive, phenomenological work, it is not the role of this thesis to justify or privilege parent-only care over other care arrangements. Rather, the research focus is simply to explore and understand the parenting approach taken by this significant subset of Australian parents and to understand the implications both for these parents in terms of their labour market participation, and more broadly from a socio-economic perspective. As qualitative research, the findings do not attempt to be generalisable, but must be interpreted within the specific time, social and geographic circumstances, cultural and temporal views of the research participants.

**Research findings**

This chapter will now detail the participants’ findings on four issues central to understanding parent-only care. Firstly, the participants’ insights into core features of parent-only care will be outlined, followed by their descriptions of the factors motivating them to provide parent-only care. The participants’ views on shift-parenting as a means of achieving parent-only care will then be presented. The presentation of the empirical research will conclude with the findings on the perceived stigma associated with parent-only care.

**The participants’ articulation of the phenomenon of parent-only care**

The meaning of parent-only care was discussed at length in all of the individual interviews. It also occupied a significant portion of the discussion in the focus group. The findings presented here are predominantly from the individual interviews as the findings

Marion Clayden, *Happy families? Atypical work and its influence on family life* (Joseph Rowntree Foundation, 2002); Harriet Presser, ‘Employment in a 24/7 economy: Challenges for the family’ in A Crouter and A Boot (eds) *Work-family challenges for low income families and their children* (Lawrence Erlbaum, 2004) 84. However, the distinction between primary parenting and shift-parenting is one made on the basis of the empirical research.
of the focus group participants were consistent with, and did not materially extend, the meaning of parent-only care articulated by the individual research participants.

At the outset, it must be noted that many of the core components of parent-only care articulated by the research participants would likely be similar to those identified by any parents speaking of good or exemplary parenting approaches. While many of the participants spoke of their high parenting goals, which centred around their desire to provide a secure, stimulating and happy environment for their child, these considerations are not definitive of, nor exclusive to, parent-only care. As outlined above, the parent-only care model is distinguished from other care approaches by the lack of outsourced care of the child. What defines a parent as a parent-only carer is that their child is continuously in parental care.

a) Parent-only care comprises two groups

In this research study, it was apparent that families using a parent-only care model comprised two groups: those in which one parent provided the significant majority of the care (primary parents), and families in which the parenting was shared (shift-parents). Note that equality of shared care was not a criterion for shift-parenting; in some families one parent spent more time in paid employment, or more time parenting. Similarly, whether the primary parent worked or not was not determinative; the relevant factor was that they provided a significant majority of the care of the child as compared with the other parent.

b) Parenting as the primary role

The language of the parent-only carers in the research study was strongly child-centric. The majority of the research participants spoke of determining what they perceived was best for their child and prioritizing this. They then sought to organize the rest of their life, including their work, around this. Other hats simultaneously worn by the parent, including that of paid worker and tertiary student, were considered secondary. As one
participant stated: ‘I would consider myself a mum who works rather than a worker who is a mum’ (P9). This cognitive prioritizing of parenting was consistent in all interviews and in the focus group.

Parenting was viewed by many participants as their primary ‘job’ or ‘role’ for the duration of their child’s early childhood – as one participant simply stated: ‘this is my job now’ (P14). Another participant explained: ‘I see my time at home with him as my job’ (P11). Another participant expressed: ‘it’s the parent who does stay at home, takes the time off work to look after the child, so it’s their job I guess, the child is in their care most of the time’ (P5).

c) The meaning of ‘home’

While many participants spoke of being a parent-only carer in language reminiscent of the traditional ‘stay-at-home mother’, it became clear throughout the interviews and focus groups that, for all of the research participants, ‘home’ was an acronym for the physical proximity of parent and child. That is, having their child with them, whether they were at home, at work or engaged in domestic, recreational, cultural or community activities, was being ‘at home’ for the participants.

d) The prioritisation of time

A core component of parent-only care identified by the majority of participants was time. This was particularly resonant with participants who provided parent-only care for their child through primary parenting. One participant explained: ‘[it’s] the time component... the parent that spends most of the time caring for the kids.’ (P21). In the words of other participants, the primary parent is the person ‘that looks after the children the majority of the time’ (P1); ‘the person who looks after the child the most’ (P13). In the words of another:

[The primary parent is] the one who stays with the child, who has the most contact with the child... you’re the one that hands out the hugs and also the discipline because you’re
with them the majority of the time. (P11)

Another participant described the primary parent as: ‘the parent who spends the most time looking after the children one-on-one... in our case, that’s me’ (P2). Yet another participant reflected: ‘I think it is the full-time carer component of things.’ (P12). For shift-parenting families, as discussed below, the time each parent spent with the child was reduced by the parenting cover provided by the other parent.

For most participants, the quantity of time spent with their child was very important. Parenting reached beyond the ambit of a full-time job to require a continuous, virtually unbroken time commitment. As one participant explained:

The way that we view parenting is that we had the children to be their parents and for us putting them in childcare where somebody looks after them more than we did was not effective parenting. Not to us, you know. We wanted to have an input into growing them and nurturing them and for us that meant looking after them full-time. (P2)

e) Availability, responsiveness and the importance of ‘being there’

Many participants considered that availability and responsiveness to their child were related issues. As one participant explained:

We worked very hard in the early stages to be very responsive and try and help organize her so she’s relaxed and happy and understands that we can help her... [parent-only care] is about consistency, which is one thing, but it’s also about the level of responsiveness you can give to your child. So now that she’s older, she doesn’t need constant attention, but she does need to get a response from an adult when she needs it. (P12)

In the words of another participant: ‘Being the primary carer is the amount that you’re available to her... I’ve wanted to be the parent that’s available to her all the time’ (P16).

It was stated that ‘being there’ for the child, to support the child’s physical and emotional needs, was paramount. As one participant reflected: ‘... just being there for him for whatever he needs me for... that’s how I’d describe being a primary parent’ (P18). For the majority of participants quality and quantity of time were not distinct; intertwined with time spent with the child was the establishment and maintenance of a
strong bond or attachment between parent and child. As one focus group participant explained:

I don’t think there’s anything else that was more important than spending my time with her. I’d leave my job, my friends, my life... [parenting child is] more important than all those things. (FGP3)

In the words of another participant: ‘we’re like a little team... we do everything together, pretty much... I don’t go anywhere without him’ (P19). Another participant explained the way time spent with the child fed into the attachment relationship between the parent and child:

I’m the one that looks after her almost all the time. I’m the one she’s with the five days a week while my husband’s at work. I’m the one that’s bathing and trying to get dinner for all of us. Then it flows onto the night-time parenting as well, when she wakes in the night she calls out for me... Then on the weekend it flows onto that as well – you seem naturally to be the first one to react when they need help. (FGP4)

**f) Engaging in the world of the child**

Another important facet of parent-only care for the research participants was teaching and playing with the child and engaging in their world. As one participant explained: ‘I’m there to play with him and to look after him’ (P11). Another participant stated: ‘being a stay-at-home parent, I think children really appreciate and enjoy that and learn and grow...’ (P15). A further participant explained:

The prime focus has been spending time with the kids and being there with them to help them develop, because it’s not just about play, it’s about teaching them and so on. That has been the prime decision-making point. (P21)

**g) Responsibility for the whole development of the child**

Decision-making about the child and taking on ‘the responsibility of raising the child’ (P7) were also key themes to emerge from the empirical data. This is exemplified by the following vignette:

The primary caregiver is the one that has to make so many decisions about the
children’s upbringing on the spot. Things can come up that you don’t realize are about to come up. I know with my four year old, he’ll ask a question and my husband and I haven’t discussed how we’re going to approach that sort of thing, so you’ll have to make a decision on the spot. [I: And that decision-making predominantly falls to you?] Yes… the initial decision falls to the primary care giver. (P21)

Similarly, another participant described the primary parent as: ‘the person that takes the most responsibility for their children. The one that’s responsible for them, their well-being, their education, their health’ (P6). For many participants, this included nurturing their child physically, emotionally and spiritually. As one participant reflected:

I think primary parenting is being the point of responsibility, like I’m responsible for making sure they have a clean bottom and a full tummy and are rested, but also that they have opportunities to go out and play, enjoy, have social opportunities, have any special needs looked after, have a hug when they need one… you’re the carer so you’re meant to be showing an example to the kids about how to behave, the role model… (P9)

For many participants, intertwined with this responsibility for the child was the facilitation of the child’s early life experiences, instilling and modelling core family morals and values and building emotional strength and resilience in the child. As one participant noted, ‘every parent wants their child to have their morals and their values’ (P7). This was in addition to the more pragmatic aspects such as the health, clothing, feeding and education of the child. In the words of one participant, the primary parent is:

[T]he person who takes the responsibility of raising that child... it’s to really raise your children. The primary parent is the sole person doing that, or the person who has the most influence on that. (P7)

For some participants, being the child’s guide and role model was a strong component of providing parent-only care. One participant spoke of this in terms of: ‘trying to be present in the moment and keep yourself calm and modelling the behaviour you want to see in your children’ (P14).

One participant summed up a number of different components of parent-only care when she expressed:
... being there for my children and being an advocate and facilitating life experiences, exposing them to things that I enjoy and that [husband] and I think are important – music and art and literature and socialization experiences, that sort of thing. (P15)

To a large degree, the participants’ descriptions of the considerations driving them to provide parent-only care are implicit in their definitions, as outlined. The next section of the discussion will elaborate on, and make explicit, the participants’ stated motivations for providing parent-only care.

**Findings on the motivation to provide parent-only care**

The discussion of parent-only care is greatly enriched by an examination of the motivations for providing parent-only care, as they explain its essence. The meaning of parent-only care is illustrated by the participants’ motivations for choosing to parent in this way.

**a) Source of motivation to provide parent-only care**

The motivation to provide parent-only care can come from a number of sources. It can be intuitive or instinctive, learned (imitation of, or determination to distinguish, their parenting from the parenting they received) or from philosophical enquiry or education. Other significant considerations include what is perceived best for their child, breastfeeding, the desire to not ‘miss out’, belief in the importance of early childhood experiences and the alternatives to parental care, in particular a reluctance to use institutional childcare. For many participants, all of the above-mentioned influences were significant. Each of these reasons will now be discussed.

Some participants spoke of their ‘gut instincts as mothers’ (P1) tending against separation from their child; being with their child was ‘instinctive’ for them (P12). Some participants spoke of experiencing an emotional response that drove them to provide parent-only care, notwithstanding that they had previously had other plans – as one participant noted: ‘it was mainly an emotional thing that I didn’t go back [to job that would have required child to be placed in childcare]’ (P3). For some, the instinct was
consequential of their own childhood experience, as one participant explained: ‘my mum stayed home with us... I think that was really nice... I guess it’s because of my mum, it’s what my mum did for us when we were young’ (P13). Another participant spoke of the strong influence of the way she was parented on her parenting decisions, as the following dialogue shows:

I’ve enjoyed thinking about my own childhood since being a mum as well... And it’s been good talking to my mum about it, and you know what you’re doing and what they were doing, it’s been good... (P9)

For others, their childhood experience informed their parenting decisions, but in a reactive way, as the following participant insight demonstrates: ‘I see [parenting] as my job because when I was growing up my mum didn’t have a lot of time for us. [I: And so you’ve defined your mothering in opposition to that?] Yes, I have’ (P11).

For some participants, the decision to provide parent-only care followed a struggle to reconcile their instinct with culturally-embedded preconceptions of full-time motherhood:

I think my instincts were telling me to stay home, but I had a lot of preconceived ideas about motherhood, some of which were culturally embedded and some based on my own family origin. Sort of negative thinking about being a stay-at-home mother. (P14)

Some participants expressed surprise at their strong desire, following the birth of their child, to ensure the child received parent-only care, as one participant explained: ‘I had never contemplated that I’d be a stay-at-home mum. I’ve got a psychology degree, I did sociology, I’d probably call myself a feminist’ (P1). Another participant similarly expressed: ‘I’m very much a career woman. I never saw myself as a stay-at-home mum’ (P20). Others noted the stark contrast between their expectations pre-child and their decision-making after the child was born. This is evident from the following dialogue:

It never entered my head not to go back to work... I was all set to go back to work, I’d booked [child] into day care and everything. And then I just couldn’t do it [laughs]. It was real surprise for everyone involved, including myself. But I couldn’t go back to work... [after the child was born decision-making was] very different. (P3)
Yet for other participants, it was always their conscious, considered decision to provide parent-only care and this decision was made simultaneously with the decision to have a child. The following vignette from the focus group dialogue illustrates this:

FGP4: Mine was a conscious choice... I was happy to stay and be the primary parent.
FGP3: For me it was a conscious choice as well.
FGP2: I used to be an au-pair and that was my first experience of handling children. So for me, I didn’t want somebody else to look after my children.

b) Attachment and bonding

Forming a strong bond or connection with their child was a paramount consideration for research participants. As one participant explained:

From my personal perspective, [the primary parent is] the person with that attachment to the child, attachment with the child. So whoever’s got that very close bond with the child. (P12)

Another participant emphasized that the role of primary parent was being ‘the one who, when they fall down, my son won’t call out for my partner, he’ll call out for me’ (P11). She reflected: ‘the emotional connection is very deep between us’ (P11). Another said of her young daughter: ‘she was extremely bonded... she had a very strong attachment to me, didn’t like being left with other people’ (P12).

Some participants attributed their valuing of bonding and attachment to their professional knowledge and experience. One participant, a psychiatrist, stated: ‘I think it was influenced by my knowledge of child development and attachment.’ (P20) Another, trained as a clinical psychologist, opined:

I think part of it is just is my role, my job role part of it, is seeing the effects where there isn’t a good childhood and a good primary attachment with the caregivers and just how messed up people can be if they don’t have a good solid grounding as a person. (P14)

c) Best for their child

A further consideration mentioned by a majority of participants was the desire to
provide what they perceived was best for their child. One participant explained this simply in terms of ‘putting the kids first’ (P1). She elaborated:

> It would be nice just to go off or be involved in something else and to walk out the door at the end of the day and to forget about that and to come home. But of all the options we looked at, nothing was beneficial for the kids. (P1)

Other participants spoke of this in terms of wanting to give their children the ‘best start’. All of the participants who raised this issue considered that the best start for their child was to be continuously cared for by a parent. As one participant said simply: ‘we feel that we’re the best people to look after our own child’ (P18). This is also exemplified by the following vignette:

> I really do want to give him the best start in life. Which comes back to my reason for not putting him in day care. [I: And so you felt that for him the best start was for him to be with you?] Yes. (P11)

In the words of another participant:

> I think it’s part of my personality about wanting to give them the best start in life, and I have fairly unrelenting standards on myself. A lot of professional women have those. So it’s very important to me… I think for the first part of their life, home-based care is best, certainly in my experience. (P15)

The following statement also exemplifies this sentiment: ‘I just think it’s better for [child] to be cared for by his parents for at least the first three years’ (P19).

d) **Breastfeeding**

Breastfeeding was a strong motivator to provide parent-only care for the majority of participants. Participants spoke of being ‘passionate’ about breastfeeding and having a ‘very deep desire’ to breastfeed. As one participant stated: ‘I was very keen to breastfeed for as long as I could. That was very important to me’ (P12). This stemmed from their assessment of the physical, emotional and cognitive benefits of breastfeeding. Breastfeeding was closely associated with primary parenting for the majority of participants. As one participant stated: ‘[parenting] falls to me, but I’m
happy to do it, because I’d like to breastfeed him’ (P13). Another participant made frequent references to her belief in the importance of breastfeeding for her child, concluding simply: ‘[breastfeeding] him, that’s important to me’ (P19).

Some participants spoke of working for breastfeeding accredited workplaces, employers of choice for breastfeeding mothers, which provided lactation breaks and facilities to express breastmilk for their child. However, one participant summed up the sentiment of many when she stated:

> I do think personally, and I’m sure everyone would agree, actually, that it’s easier to breastfeed when you’re home. You’re there, it’s easier and it’s available. You’ve got your own timeframes. (P8)

In the words of another: ‘I know some people do go back to work earlier and do manage to express but I just felt when you’re the sole food source it’s easier to be around’ (P20). Another participant expressed it differently, as follows: ‘she’s used to breastfeeding to sleep. [Laughs] She’s not a good candidate for day care anyway’ (P12). A further participant explained: ‘giving up breastfeeding early is a result of going back to work, just the practicalities. I can understand that’ (P1). For some participants, their approach to breastfeeding was directly related to their plans about work, as one participant in the focus group explained:

> If I had planned to go back to part-time work I may have done things differently. If I was going to go back to work in six months I would have obviously tried to wean her earlier or look at other things or just my parenting style in regards to breastfeeding would have changed. (FGP4)

Many participants considered that the amount of breastmilk a child receives, the duration of the breastfeeding relationship and the benefits for the child directly positively correlate to the mother’s physical presence. This attributed to the relative ease of breastfeeding when the mother is present and the ability to breastfeed the child ‘on demand’, rather than in accordance with a pre-arranged schedule. For research participants, the desire to breastfeed their child ‘on demand’ correlated with a strong reluctance to be physically separated from their child, as one participant explained: ‘it
was very important to be around her, because I was her primary food source, and she had a very strong attachment to me’ (P12). Another participant explained: ‘while you’re breastfeeding you really need to be close to them’ (P15). Breastfeeding was seen by some participants as symbolic of the child’s full dependence on them. This is evident from the following participant insight: ‘there’s been the breastfeeding, the full dependence of [child], I’ve needed to be the primary available to her’ (P16). Participants spoke of being anxious to avoid separation from their breastfed child.

e) Not missing out

A further factor motivating participants to provide parent-only care was the desire to be with their child and to not ‘miss out’ on their early childhood. As one participant simply explained, it was about: ‘not wanting to not be with my child, not wanting to have her raised by someone else’ (P14). In the words of another: ‘There are so many reasons, but I guess the time away from them is the main thing. I don’t want to be away from them. It’s really about spending time with them’ (P10). A further participant reflected: ‘I guess the biggest thing is that whole cliché, “I don’t have kids for someone else to raise them”’ (P7). These statements are representative of the sentiments of the majority of participants. Some participants couched this desire in terms of specifically not wanting to miss out on ‘firsts’ (first steps, first words). For example, one participant stated: ‘You know, someone walks up the steps for the first time or something… you think being a mum is great, you don’t want to miss those sorts of things’ (P9). Another noted:

A lot of the firsts were [important to the decision to provide parent-only care]. I didn’t want to miss out on when he first crawled or smiled or sat up or walked or his first word or anything like that. (P11)

In the words of a further participant: ‘I want to be the primary carer, I don’t want someone else being there for their first steps and things like that’ (P3). For the majority of research participants, however, the sentiment was more general, it was simply about wanting to be with their young child.
Belief in the importance of early childhood experiences and awareness of its limited duration

Belief in the importance of early childhood experiences for children, and an acknowledgement of the limited duration of early childhood parenting, were sentiments expressed by most participants. For many, this awareness significantly informed their decision-making about work, as one participant explained: ‘my work is always going to be there, but these little kids are only going to be little for a very short time in the whole scheme of things’ (P14). Another stated: ‘it’s such an important time in his life. And they grow up so quickly as well’ (P13). Some participants noted the sensitivity and vulnerability of young children as paramount to their decision-making, contrasting the needs of pre-school and school-aged children who were perceived to benefit from increased socialization and independence.

For many participants, this belief in the importance of early life experiences stemmed from knowledge of the literature on early childhood and child development. One participant stated: ‘there’s a whole raft of outcomes that are influenced by early life experience’ (P20). Another participant explained: ‘looking at child development and everything, there was absolutely no way I was going to put my child in a childcare centre’ (P1). Another stated: ‘I’ve done a lot of reading... that has been a very strong influence on me’ (P12). Many of the participants had read widely as part of their decision-making process and in the course of the in-depth interview raised relevant information they had relied on. As one participant noted: ‘[The literature] certainly does influence my parenting [decisions]’ (P20).

Another participant referred to her knowledge of the literature as informing her decision to ensure her child received parent-only care, noting: ‘certainly the evidence that we’ve read, they should just be with their parents’ (P18). A small minority of participants noted that the ability to exert control over the influences on the child’s development, including the minutiae of their education, health and discipline, was an
important consideration for them.

**Shift-parenting**

One increasingly popular form of parent-only care is shift-parenting. Shift-parenting is one way in which two-parent families wishing to provide parent-only care for their young children manage the work-family interface. Shift-parenting is, in the opinion of the participants who spoke of it, equivalent, and in some respects superior, to primary parenting. There are both benefits and problems associated with this approach. The research findings with respect to shift-parenting will now be presented.

a) **The perceived benefits associated with shift-parenting**

Some participants reported a great deal of satisfaction from being able to share care of their young children with their partner. As one participant explained:

One of the benefits of [husband] caring for [child] while I work is that he’s very much formed an equal relationship with her. I think that’s been just great for my mental health, because I don’t feel like I’m completely alone here. He appreciates what it’s like to be alone with a small child for an extended period of time... She’s not at all concerned about being alone with her dad, she doesn’t cry if I go, she seems to have an equal attachment to both of us. (P16)

For the minority of participants who shared parent-only care, there was consensus that this was beneficial for both parents and children. Even where there was only a small amount of increased care by a second parent, the benefits were reported to be significant. One participant explained:

My husband, through all the kids, has taken off every second Friday. And that was huge, that was the best thing for me. It was such a big help. It was not only good that I had that time and I didn’t feel guilty so much, but the time he spent with them was really good, great. And he understood what I was doing and didn’t judge so much if the kitchen was a mess when he got home... (P10)

One participant provided insight into the decision-making that led her and her husband, both highly-educated professionals, to share care: ‘[Husband] wanted to work part-time also and to spend time with them... he wanted to see the kids grow up. To have a part in
them growing up for him too, being an involved dad’ (P20). Shift-parenting was valued by many of the research participants for this reason – enabling both parents to develop a close relationship with the child and to experience being a stay-at-home parent.

b) The perceived difficulties associated with shift-parenting

A few participants spoke at length of the logistical difficulties in arranging their lives to ensure continuity of care for their children while meeting their employment requirements. As one shift-parenting participant explained: ‘it’s certainly been six months of just a juggle… it is a juggle trying to meet all the needs’ (P16). In the words of another:

I’m extremely busy between it all, I think everybody is. Just the logistics… and just keeping track of what you’ve got to do at work and at home and just fitting it in around when you’re there and when you’re not there. (P22)

Other participants had sought to implement workplace arrangements that would enable them to play a greater role in parenting yet their employer had not approved the arrangement:

My husband would love to take more part in looking after the children and he actually asked to raise reduce his working hours from 100% to 80% - one day a week less. Or could he work from home one day per week. He was told by his employer that it’s not possible. As a male you’re supposed to work five days a week and that’s it. And he would easily be able to work at home because a lot of his work is computer-based. His employer, which is flexible in a lot of things, is not flexible in things like this. (FGP3)

Another consideration relevant to decision-making with respect to shared care arrangements noted by research participants was breastfeeding, particularly during the child’s first year. As one participant explained:

He’d actually like to do it himself too, and he’d, the thing is, he’d be wonderful at it. We have talked about that, not so seriously because of the age of the children so far and I breastfed and intend to again. I guess I feel like it does make it more applicable for me to do it in the early days. (P17)

For another, the point at which their shift-parenting was planned to commence was
‘contingent on when I finish breastfeeding. And also I guess how I’m feeling at the time’ (P14).

The perceived inequality of current taxation laws and policies was raised in both the individual interviews and focus group discussion. Many participants noted that they were, in effect, financially penalised where both parents participated in the labour market on a less than full-time basis, as opposed to one parent working in a full-time capacity and earning the majority of the family income. One focus group participant captured the views of the many who spoke of this issue when she explained:

My husband and I earn exactly the same and we get no family tax benefits. If he worked full-time and earned double and I [didn’t work], we would get five grand in family tax benefit. Where’s the sense in that? The government is opposed to shared parenting, they’re promoting single parent work [by that rule]. (FGP7)

c) Parental preferences regarding primary parenting vs. shift-parenting

For a minority of research participants, the main reason why the father was not primary parenting was the mother’s preference to be the primary parent, as the following statements show:

We had talked about it, I could take a year off and then my husband might take a year off. And I think at one point I was earning more money so we sort of talked about it. I think the main reason we didn’t do it was I wouldn’t like that. [Parenting child] was just that was what I wanted to do. (P10)

My partner is quite happy to stay home and look after him full-time, but I want to. (P18)

We even talked about me applying for a job that I was interested in and [partner] said that he would be happy to stay at home and look after [child]. And I thought about it probably for five seconds and I thought, I just couldn’t do that, I love being [child’s] mum and being home and looking after him. (P19)

For others, it was mutually agreed, as one participant explained: ‘[Husband] didn’t want to stay home. I always wanted, once I had kids, to be the one to stay home and look after them’ (P6).
d) Where shift-parenting is possible

For a small minority of participants, all of whom it must be noted were highly educated and socio-economically advantaged, shift-parenting was possible:

We are very fortunate in that my husband also works part-time. He’s always worked full-time too, but with me going back to work, we wanted to split care. And his work was initially resistant to that idea but came around. We were non-negotiable. (P20)

Another participant explained:

Since [second child] has been born, my husband [has been] taking Wednesdays off for the rest of the year to be more involved... he wants to be involved with the kids and to have at least a day with them a week. (P14)

The overwhelming story however was of the difficulties precluding parents from being able to shift-parent effectively. The majority of participants opined that, notwithstanding their partner’s desire and suitability to share-parent, it was an attractive but unavailable option. In families where neither parent was willing to emulate the ‘unencumbered worker’, neither parent enjoyed the associated economic privileges with the result that the family was less well-situated in terms of total income and economic security than in arrangements that emulated that breadwinner model. A pragmatic assessment of this reality was the professed reason why a shared care approach was not trialled by many participants. As one participant noted:

He might say work from home say one day a week and I might be able to go out to work then. And that’s something that sounded really good to me, but now that the economic climate has changed, he doesn’t have that bargaining power... everyone’s just sitting tight. (P19)

e) Shift-work as a means of facilitating shift-parenting

Shift-work is often sought by shift-parenting families to facilitate shared care. A small number of research participants spoke of this issue. One participant explained how she had arranged to work shifts on weekends and evenings when her husband would be available to care for the child (P16). Another participant similarly noted the desirability of night shift-work. She considered that there ‘needs to be a whole new area of work opened up that caters for people that have young children’, explaining: ‘going to work
from eight o’clock to midnight would suit me fine, all the kids are in bed, it would mean I’d still be home at a decent hour to get enough sleep to get up with them early in the morning’. However she lamented the lack of available options: ‘there’s really very little in those hours available’ (P6).

**Feeling ‘abnormal’, ‘isolated’ and like a ‘bit of a freak’ – the stigma of parent-only care**

The findings section will conclude with a brief consideration of the stigma that many research participants reported experiencing as a consequence of being parent-only carers. Understanding this experience is importance in gaining a balanced view of the phenomenon. Many participants reported feeling ‘abnormal’, ‘strange’, ‘unusual’ and ‘isolated’ by their decision to provide parent-only care. This was a sentiment expressed by highly educated, professional participants and non-tertiary educated participants alike. One participant explained it in this way:

> My group of friends, we are unusual in the fact that we have decided to stay home, and that is really not the norm these days. Everyone goes back to work... People are like: ‘what do you mean your kids aren’t in day care?’ They’re really shocked... And everyone looks at you like you’re a bit of a freak if you’re a full-time mum... like there’s something wrong with you that you stay at home. (P3)

This issue was also discussed at length in the focus group. One comment made by a focus group participant and affirmed by the other focus group participants was of the feelings of difference and isolation associated with the decision to provide parent-only care beyond the initial period of the child’s infancy:

> When you get to that 12-month mark when most people do go back to work after their maternity leave, you do get a lot of peer pressure, which I don’t think is intentional, as to how come you haven’t gone back to work. It’s almost like the people who did go back to work make you feel a little bit guilty about staying at home... That’s the one thing I do notice about when you really decide to be the primary carer, it’s after everybody else has gone back to work and you’re still at home. (FGP5)

One participant reflected on the isolation of providing parent-only care in a climate in which two-income families is the norm, stating:

> We’re the abnormal people in our circle of friends, because all of our friends are
Another participant opined: ‘we don’t support, as a society, mothers of young children very well, and families of young children very well’ (P20). A further participant spoke of how she found it ‘quite overwhelming’ to be alone with her child for most of her day, isolated from her previous work community (P19). Another linked her episode of serious post-natal depression to the value ascribed to parenting, and children, by society. She explained that, despite having ‘read copiously about parenting and motherhood’, she felt completely ill-prepared for ‘the rigours of mothering’ and was ‘still seeking validation of the role’ (P15).

These feelings of being undervalued were exacerbated for some participants by their feeling of being excluded from the mainstream fabric of social life. Some participants spoke of their perception that Australian society is ‘child-intolerant’. One participant, who spoke at length about this issue, emphasised that society needs to embrace ‘a willingness to look at things in a different way... to value family and to value children... to recognise the importance of children’ (P16).

This is not to discount the pleasure these, and other, participants expressed about parenting. Many participants spoke about the joy and satisfaction they derived from being the carer of their young child. As one participant reflected: ‘I do enjoy being home with them... the moments of playing with them and reading stories and singing stories and having fun and [breast]feeding, sitting with a child dozing on my lap, semi-feeding, semi-dozing’ (P20). Another participant explained:

I’ve really enjoyed being a mum, it’s one of my favourite things. And I really am enjoying the stay-at-home aspect of it, with the kids... time to go to parks with them, to make cakes with them, to catch up with other mums. You have great days and days that are fabulous... (P9)

**Discussion**

Having outlined the empirical findings on the meaning of parent-only care, and the
participants’ perspectives on their motivations for providing parent-only care, the chapter will now consider the empirical findings in the context of the extant literature. There is a very limited body of literature that has considered the phenomenon of parent-only caring at the interface of labour market participation. This chapter will now discuss this literature, and the contribution the insights from the empirical findings provide in terms of affirming, contradicting and extending the existing literature.

**Initiating a new direction in Australian empirical research literature**

To date, there has been no empirical research that has explored the phenomenon of parent-only care at the interface with work within a qualitative methodological framework, in Australia or in another jurisdiction. There is a limited body of empirical research that is relevant in understanding and exploring the research findings. There is also a small body of theoretical and reflective literature that touches on relevant issues. The discussion will consider the empirical research before considering the way in which the research findings can be understood in the context of the theoretical and reflective literature in this area.

The research findings that are most relevant to understanding the phenomenon of parent-only care are from the Longitudinal Study of Australian Children, which, as one sub-issue amongst a multitude of other topics, explored the interface between parent-only care and work in the context of dual-income parent-only care families. This study builds upon earlier quantitative work examining changes in childcare use among partnered women. There is a small body of other quantitative Australian studies that have also considered this issue. This literature simply defines parent-only care as occurring when parents care for their own children and do not outsource their care to

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8 Gray, Baxter and Alexander, above n 1.
10 Baxter, above n 1; Cobb-Clark, Liu and Mitchell, above n 1; VandenHeuvel, above n 1.
other formal or informal care providers.\textsuperscript{11} This base definition is consistent with the research findings documented by this thesis. However, this thesis advances the existing knowledge in this area by providing insights into the experience of parent-only care for a subset of Australian parents who care for their children in this way.

Qualitative research consisting of 20 in-depth interviews conducted by Reid-Boyd in Western Australia as part of a doctoral thesis, exploring the childcare debate between at home and at work mothers (colloquially known as the ‘mother wars’), also offers relevant insights. The finding that, for at home mothers, ‘being there’ for the child was considered to involve ‘quantity time’, rather than ‘quality time’, and also to involve an emotional dimension, resonates with the research findings.\textsuperscript{12} Reid-Boyd’s explanation of ‘being there’ as being constant and continual, rather than singular or particular, irrespective of whether the mother is working or not, provides insight into the research participants’ experience of ‘being there’.\textsuperscript{13}

The only other empirical research relevant to the definition of parent-only care, although qualitative, was undertaken in the American context. A Texan study focused on the reasons underpinning the decision by highly educated women to leave the workforce to become parent-only carers – while this has relevance for the motivation for providing parent-only care, it does not explore the meaning of parent-only care in the context of labour market participation.\textsuperscript{14}

A key finding of the empirical research is that time spent with the child is a core feature of parent-only care. The finding that time is an integral part of parent-only care is important as it is at the heart of this research – the focus on the integration of work and

\textsuperscript{11} Gray, Baxter and Alexander, above n 1; Cobb-Clark, Liu and Mitchell, above n 1; VandenHeuvel, above n 1.


\textsuperscript{13} Reid-Boyd, above n 12. Hochschild refers to this as the ‘third shift’: Arlie Russell Hochschild, \textit{The time bind: When work becomes home and home becomes work} (Avon Books, 1997).

parenting necessarily challenges contemporary assumptions and norms about work and parenting. There is a small body of literature that has considered the relevance of time, and the categorisation of time, in the context of the care of young children. The perspective articulated by the majority of research participants that young children thrive when afforded the consistent presence and availability of the parent, rather than parent-allocated ‘quality time’, resonates with an American qualitative study and provides affirmation of the theoretical literature on this point. There is also a small body of relevant literature on time usage. One qualitative Australian study has examined the way in which mothers employed by a hospital in Canberra synchronise their time for work and family, and the work required of these mothers to maintain simultaneous work and parenting attachments. Quantitative Australian studies have considered parents’ time usage and reflected that parents ‘shift and squeeze time’ to avoid a ‘one-for-one trade-off’ between work and childcare.

Making the decision to provide parent-only care as a consequence of an intuitive instinct or ‘gut reaction’ has been documented in other qualitative research, although both of these studies have considered parent-only care only, and not how it interfaces with work. One American study found that maternal decision-making to become a primary parent, where the woman is highly educated with an established career, can be an emotional response to becoming a mother. For many of the participants in that research study, as in this research, the decision was consequential of the parenting they

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15 Rubin and Wooten, above n 14, 339.
19 Rubin and Wooten, above n 14, 339.
had received.\textsuperscript{20} The other study only touched on this point incidentally – it documents that one participant in a set of Australian case studies stated:\textsuperscript{21}

I suppose it is all about children enlarging your world. They can change your view of yourself and change what is important. You don’t know it will happen and it is delightful and scary when it does.

A further factor posited by participants as driving their decision to provide parent-only care for their young child was what they perceived was best for the child. This factor is also recorded in the qualitative literature as a significant consideration for parents, including in Australian research.\textsuperscript{22} Longitudinal qualitative research conducted by Houston and Marks, in the United Kingdom, which examined the determinants of first-time mothers’ intentions about work and childcare and their experiences during the three years after the birth of their child, highlights the ‘very strong belief’ of parent-only carers that this was the best thing for their child, notwithstanding that many considered being a parent-only carer was not ideal for them personally.\textsuperscript{23} Rubin and Wooten’s American qualitative study also documents that freedom, flexibility, a more peaceful ‘less hectic’ household, a sense of security for the child and peace of mind by the parents that the child was ‘safe and happy’ are key considerations driving highly educated mothers to choose to provide parent-only care.\textsuperscript{24}

Another factor raised by many of the research participants as an important consideration motivating them to provide parent-only care for their young children that is also documented in the literature is the desire not to ‘miss out’ on a significant part of their child’s early childhood. This finding resonates with previous Australian qualitative

\textsuperscript{20} Rubin and Wooten, above n 14, 339.
\textsuperscript{24} Rubin and Wooten, above n 14.
research that the desire to ‘not miss out’ on their child’s developmental milestones was central to their decision-making not to use formal childcare.25 In their American qualitative study of the experience of highly educated mothers who stayed home with their children full-time, Rubin and Wooten also documented that a significant perceived benefit of staying home was not missing out; their participants ascribed great value to being present for the child’s milestones.26 For their research participants, as for the participants in this research study, this was intertwined with a belief in the value of the consistent presence of a parent during the child’s formative years.27

The finding that parent-only carers define themselves primarily as a parent, with their working status secondary to this, resonates with another research study. A qualitative study on welfare reform in the US context has noted the cognitive prioritising of mothering over working, both in terms of self-definition and pragmatic strategies for managing dual mothering and working roles.28

The empirical findings provide some insight into the experiences and decision-making of parent-only carers with respect to shift-parenting. In the literature, including two Canadian qualitative studies, shift-parenters are generally united in their desire for both parents to have a high level of involvement in the day-to-day care of their children.29 There is a small body of American research, including qualitative research, which has documented the benefits for involved fathers30 and their children alike.31 Relevantly in

26 Rubin and Wooten, above n 14, 340.
27 Rubin and Wooten, above n 14, 340.
light of the research findings, Hertz emphasises that it is only the socio-economically well-positioned, dual-earner families that can afford to organise their childcare in this way.  

Reporting on the findings from ‘Growing up in Australia’, the Longitudinal Study of Australian Children, Gray and Smart document that while factors such as the age of the infant, the maintenance of breastfeeding and maternal employment conditions and characteristics were significant factors affecting the incidence of parent-only care, regular father care was not a determinative factor influencing whether a child received parent-only care, with ‘similar rates’ of ‘regular father care’ in both parent-only care families and those using outsourced childcare. From this, they concluded: ‘child care by fathers was not a major influence on the capacity of working couple families to provide parent-only care’. However, this was not the case for some of the research participants, whose ability to work and provide parent-only care was dependent upon the shift-parenting arrangements made with their partner.

A further finding from the research is that there is a perceived stigma associated with parent-only care. The isolation experienced by parent-only carers of young children is also documented in qualitative literature conducted in other jurisdictions. Parent-only carers can experience what in the literature is termed a ‘loss of identity’ or ‘lack of

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33 Matthew Gray and Diana Smart, ‘Growing up in Australia: the Longitudinal Study of Australian Children is now walking and talking’ (2008) 79 Family Matters, 5.
35 Rubin and Wooten, above n 14, 342; E Madaras, ‘Journeys inward: Portraits of three women’s growth through the entry into motherhood’ 60 (1999) 6 Dissertation Abstracts International 3002B.
status’. This is recorded by Zimmerman in the context of the lack of societal support and validation for full-time parents. As women have become ‘equal’ to men on stereotypically masculine terms in the workplace, ‘women’s work’ in bearing and raising children is devalued. The low level of value and respect attributed to the work involved in bearing and raising children and caring for a family and home environment, and the lack of supports offered to mothers at home full-time with their children, can cause mothers to lack self-esteem and confidence. Other qualitative studies have recorded the emotional difficulties parent-only carers face in terms of loss of identity, self-esteem and independence.

Situating the empirical findings in the theoretical and reflective literature

While there is a very limited body of empirical literature relevant to the phenomenon of parent-only care, this is supplemented by the small body of theoretical and reflective literature that resonates with key findings documented in this research study. This literature will now briefly be discussed.

The research finding that a core feature of parent-only care is ‘being there’ for the child resonates with the theoretical literature. Child development literature has emphasised the developmental importance for children of a parent ‘being there’, with this term encompassing not only the parent’s physical presence, but also their emotional presence and attunement to the child’s changing developmental needs. Cook and Willms’ review emphasised the correlation of time and incidents of positive activities

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37 Zimmerman, above n 34.
38 Hochschild, above n 6, 211.
40 See for example Rubin and Wooten, above n 14.
41 Fox, above n 6.
including laughing, playing, talking and reading with children.

Another factor that emerged from the participants’ stories as integral to their decision-making with respect to care is the opportunity to form a strong relationship with the child. This finding is significant as, while there has been a wealth of research on bonding and attachment in the context of early child development, this has been limited to the theoretical literature. Bowlby’s work linking early secure attachment and the development of empathetic humanity, now heavily criticised, launched attachment theory in the 1960s. The seminal work of Klaus and Kennell in the 1970s, which introduced ‘bonding’ as a reference to a unique, specific and enduring relationship between mother and child, brought awareness of bonding and attachment issues to the paediatric research agenda.

Psychoanalytical theorists have taken divergent theoretical positions. These perspectives are broadly distinguishable into two strands. One group is based on object-relations theory, with notable theorists including Dinnerstein (Dinnerstein, Dorothy, The Mermaid and the Minotaur (Other Press, 1976)), Nancy Chodorow (Chodorow, Nancy, Feminism and Psychoanalytic Theory (Yale University Press, 1989); Chodorow, Nancy, The Reproduction of Mothering (University of California Press, 1978)) and Jane Flax (Flax, Jane, ‘The Conflict Between Nurture and Autonomy in Mother-Daughter Relationships and within Feminism’ (1978) 4(2) Feminist Studies 171); the other derives from the work of Jacques Lacan, developed by Helen Cixous (Cixous, Helen, ‘The Laugh of the Medusa’ (1976) 1(4) Journal of Women in Culture and Society 875 and Cixous, Helen and Catherine Clement, The Newly Born Woman (I B Tauris, 1986)), Luce Irigaray (Irigaray, Luce, This Sex Which is Not One (Cornell University Press, 1985) and Irigaray, Luce, Speculum of the Other Woman, 3rd ed (Cornell University Press, 1985)) and Julia Kristeva (Kristeva, Julia, Polylogue (Seuil, 1977)), discussed by Slipp, Samuel, The Freudian Mystique: Freud, Women and Feminism (New York University Press, 1993), 196.

role has encompassed empathy and responsiveness to the child,\textsuperscript{47} stemming from Winnicott’s idea of the ‘good enough’ mother\textsuperscript{48} as critical to the infant’s development. Such notions have also been affirmed and extended by Guntrip\textsuperscript{49} and Bettleheim.\textsuperscript{50}

It is acknowledged that considerations associated with bonding and attachment have been fraught with controversy, touching as they do upon issues including the appropriateness of early childcare; traditionalist, religious and feminist discourse on the roles of women and mothers, men and fathers; and ‘mother wars’ between those with different perspectives.\textsuperscript{51} The concern of this thesis is not to explore the polarities of this debate.\textsuperscript{52} Rather, as descriptive phenomenological research, it is capturing the experience of parent-only care from the participants’ perspective and recognising that

\textsuperscript{47} Christine Everingham, \textit{Motherhood and Modernity} (Allen & Unwin, 1994), 73.
\textsuperscript{48} Donald Winnicott, \textit{Maturational Processes and the Facilitating Environment} (Hogarth Press, 1965), discussed in Birns and Hay, above n 44, 54.
\textsuperscript{50} Bruno Bettleheim, \textit{A Good Enough Parent: The Guide to Bringing Up Your Child} (Thames and Hudson, 1987), discussed in Everingham, above 47.
this perspective, albeit one among many, is affirmed in the literature as a valid position with important positive outcomes in terms of child development.\textsuperscript{53}

The research finding that parents are motivated to provide parent-only care as they consider it beneficial for their child also resonates with the theoretical literature. Pocock states: ‘[h]ow children are cared for and educated in their infancy and preschool years... leaves a deep imprint and long-term social and economic costs’.\textsuperscript{54} Peter Cook notes the ‘long-term significance of optimal early maternal nurture for healthy cognitive, emotional and physical development.’\textsuperscript{55} Press concurs, arguing that early childhood experiences are critical to longer-term development.\textsuperscript{56} Shonkoff and Phillips cite the ‘profound’ effects of early care on brain development.\textsuperscript{57}

A further factor that emerged from the empirical data as significant to decision to provide parent-only care is breastfeeding. The benefits of ‘full-term’ breastfeeding for the health of children and mothers, although not specific to parent-only care, are well documented in the health literature, with explicit international and domestic recommendations about the minimum period each infant should be breastfed.\textsuperscript{58} It is


\textsuperscript{54} Pocock, The Labour Market Ate my Babies: Work, Children and a Sustainable Future, above n 51, 154, citing Heckman, above, n 53; Press, above, n 53.

\textsuperscript{55} Cook, above n 16.

\textsuperscript{56} Press, above n 53.

\textsuperscript{57} Shonkoff and Phillips, above n 53, 219.

\textsuperscript{58} The World Health Organisation recommends that each child should be exclusively breastfed for six months, with breastfeeding to continue for up to two years and beyond; in Queensland the recommendation is that infants be exclusively breastfed for six months, with breastfeeding to continue
now widely recognized that there are significant reduced public health care costs
associated with breastfeeding, due to the immunological and nutritional advantages of
breastmilk as compared with artificial milk. Breastfeeding is also recognized to result
in substantially lessened adverse environmental impact, as breastfed infants are fed
without the commercial production, packaging and transportation of artificial milk.
Breastfeeding also has significant economic implications, especially in developing
countries – when the market value of breastmilk is calculated for a national economy, it
is of equivalent value to a precious natural resource. Yet breastfeeding is generally
seen as a personal issue for mothers, rather than the public health issue that it is. The
World Health Organisation (WHO), the International Labour Organisation (ILO) and the
United Nations Children’s Fund (UNICEF) have issued explicit recommendations that
working breastfeeding mothers be provided with lactation breaks to feed their babies or
express breastmilk, yet these mandates are not uniformly enacted in domestic
legislation.

The finding that the extent and duration of the breastfeeding relationship and the
benefits for the child directly positively correlate to the mother’s physical presence is
touched upon by Palmer when she states, ‘it is breastfeeding rather than breastmilk

for up to 12 months and beyond: World Health Organisation, Global Strategy for Infant and Young Child
Feeding (World Health Organisation, 2003); World Health Organisation, The World Health Organization’s
infant feeding recommendation < http://www.who.int/nutrition/topics/infantfeeding_recommendation/en/index.html>; Queensland
Palmer, above n 44, 284-7.

United Nations Children’s Fund, World Health Organisation, United Nations Educational, Scientific and
Organisation, The World Health Organization’s infant feeding recommendation <
http://www.who.int/nutrition/topics/infantfeeding_recommendation/en/index.html>; Palmer, above n 44, 301.

Alan Berg calculated the market value of breastmilk for several different countries by determining the
costs of securing an equivalent amount of nutrients through commercial milks and provided as one
example Indonesia where breastmilk is one of the most precious natural resources, exceeding tin and
coffee in gross monetary value and approaching that of rubber: Alan Berg, Nutrition Factor: It’s role in
national development, 5th ed (Bookings Institution Press, 1973)
See ILO Convention 183 on Maternity Protection.
For example, there is no such requirement in Queensland laws, it falls to the discretion of industrial
instruments such as awards and collective agreements, and workplace policies.

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that is the powerful emotional factor for the interaction between mother and child’.\textsuperscript{64} For research participants, the desire to breastfeed their child ‘on demand’ correlated with a strong reluctance to be physically separated from their child. This supports the conclusion that breastfeeding significantly increases the probability of parent-only care, particularly primary parenting by the mother.\textsuperscript{65}

It must be acknowledged that this feature of parent-only care privileges mothers over fathers as the primary care provider. Breastfeeding was a consideration that for many families weighed in favour of the mother being the main carer, particularly in the first six months when breastfeeding was most frequent. However, it was not determinative, with a minority of research participants reporting that they had established successful shift-parenting and father-care arrangements during the period while the child is breastfed.

There is a limited body of literature that has considered shift-parenting. In this literature, the unique stressors related to shift-parenting that can make such arrangements logistically challenging are noted, in both the Australian\textsuperscript{66} and American contexts.\textsuperscript{67} Perhaps for this reason, the percentage of fathers providing physical care for young children, documented by Australian quantitative research, remains low.\textsuperscript{68}

Families dedicated to a shared-care approach, both in this study and in the literature, generally report a ‘tag-team’ model.\textsuperscript{69} While Summers\textsuperscript{70} attributes the ‘tag-team’

\textsuperscript{64} Palmer, above n 44, 78, 287.

\textsuperscript{65} The analysis by Gray, Baxter and Alexander, above n 1, of the results of the Longitudinal Study of Australian Children showed that families in which a child was being breastfed was 14 percent more likely to use parent-only care.

\textsuperscript{66} Pocock, \textit{The Labour Market Ate my Babies: Work, Children and a Sustainable Future}, above n 51, 55-56.


\textsuperscript{68} Lyn Craig, \textit{Caring differently: A time use analysis of the type and social context of child care performed by fathers and mothers} (SPRC Discussion Paper No 118) (Social Policy Research Centre, 2002); Gray, Baxter and Alexander, above n 1, 48.

\textsuperscript{69} Dienhart, ‘Make room for daddy: The pragmatic potentials of a tag-team structure for sharing parenting’, above n 29.
sharing of care between working parents as economically-driven, financial considerations were not the main concern for research participants. Rather, the reasons were directly connected to those driving participants to provide parent-only care.

The stories of shift-parenters are also recorded in the lay literature. In *Only in New York*, Overington, a well-known Australian journalist, recounts her adventures shift-parenting twin toddlers and working as foreign correspondent for the *Sydney Morning Herald* and the *Age* from Manhattan. She says:

> Every working mum – whether she does five hours a week or fifty – can tell a story about the time her paid work collided with her home life. When you work from home, you tend to accumulate quite a few such tales.

My children were five months old when Sydney hosted the Olympics in 2000. Although I was not yet back at work, I had been scheduled to cover the triathlon and some swimming events... I typed the story into my laptop with one baby strapped into a Baby Bjorn on my front and the other in a Baby Bjorn on my back.

By the time my family moved into our apartment in New York, the children were twenty-two months old and the line between my two worlds – the one in which I was a mother of twins, and the one in which I was a foreign correspondent – became hopelessly blurred. I was working from home (or, depending how you look at it, raising children in my office)...

I realized fairly quickly that the time difference between Sydney and New York would work in my favour. When I woke up in the morning, it was close to midnight in Sydney. I could spend several hours with the children, exploring New York, tending to the washing, playing clapping games and mashing bananas. In the afternoon, I would travel to the UN, or retreat to my office downstairs, while [husband] took over the business of caring for [children].

Despite the ardent efforts of the feminist movement, there remain structural, identity

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72 Over many decades, feminists have campaigned for men to accept responsibility for a greater share of household domestic work including childcare: Barbara Caine (ed) *Australian Feminism: A Companion* (Oxford University Press, 1998), 71. They have fought against the model of manhood celebrated in mainstream Australian nationalist culture described by Marilyn Lake, *Getting Equal: The history of Australian feminism* (Allen & Unwin, 1999), 31 as deeply influential in Australian culture.
and cultural barriers to shared care approaches. From the stories of the research participants, it is apparent that the difficulties encountered by primary parents vis-à-vis their workforce participation similarly stunt shared care arrangements and, in some cases, aggravate the difficulties. Cannold validates these fears, citing the marked increase in complaints by Australian fathers to the Equal Opportunity Commission on the grounds of parental status and asserting:

While social convention and pay inequality ensure that it is largely women who will attempt to modify their work patterns (by working part-time or using flexible hours) to achieve some balance between work and home – and wind up on the mummy-track for their efforts – working fathers who attempt a similar juggling act will suffer similar career misfortune. It is parental practice, not gender, which puts workers at risk of discrimination.

This is compounded by present taxation and family welfare laws and policies, which privilege low and middle income breadwinner families about dual-income families, irrespective of cumulative family income up to the cut-off level of $150,000. Owens contends that the tax incentives for partnered women who leave the labour market are reflective of the law’s ambivalence about female participation in the labour market.

An analysis of the welfare and taxation benefits available to breadwinning, as opposed

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74 This will be discussed in Chapter 5.

75 From 1% of complainants in 2002 to 16% in 2003.


77 As will be discussed in Chapter 4, eligibility for the payment of Family Tax Benefit Part B is dependent on the quantum of the secondary income in a family, rather than the total family income. These policies were introduced during the Howard government era. Family Tax Benefit B in particular provides an incentive for mothers to stay at home, irrespective of the total family income. The legislative reforms introduced by the former conservative Howard government privileged two parent, single income households, irrespective of the quantum of that income, and disadvantaged single parent and two parent, dual-earner households; these laws have not been fundamentally amended under the incumbent federal labor government: Rosemary Owens, ‘Reproducing Law’s Worker: Regulatory Tensions in the Pursuit of ‘Population, Participation and Productivity’ in Christopher Arup, et al (eds), *Labour Law and Labour Market Regulation* (The Federation Press, 2006), 410, 419, 429; Sandra Berns, *Women Going Backwards: Law and Change in a Family Unfriendly Society* (Ashgate, 2003), 201-2; Summers, above n 70, 7, 8.

78 Owens, above n 77, 410, 429.
to shift-parenting, families supports this assertion.\textsuperscript{79}

Generally, the extent of paternal involvement in parenting of young children remains substantially underwhelming. Gambles et al explain:\textsuperscript{80}

\[G\]overnment initiatives to encourage fathers to be more involved in family care require corresponding shifts in workplaces and families, including the questioning of assumptions about ‘ideal’ workers, ‘ideal’ carers and what it means to be a man or a woman. Innovative approaches are needed that address multiple and interacting levels. This is a huge challenge. It involves questioning many accepted wisdoms about how society works and how people should behave.

The research finding that parent-only carers can experience social stigma, lack of status and social isolation resonates with the theoretical and reflective literature. Kitzinger notes the social disregard for mothering in industrialized cultures and states:\textsuperscript{81}

\[I\]n contrast to traditional cultures, when a woman turns into a mother she is treated suddenly as less, not more… Her identity has become that of ‘a mother’, and it is as if the rest of her – her working skills, her career goals, and all her other interests – has vanished.

Ironmonger explains that caring for children alone at home can leave mothers feeling lonely and socially isolated and can cause them to lose self-confidence and self-esteem. This experience is compounded by being geographically and/or culturally isolated from familial and friendship networks,\textsuperscript{82} or by suffering from disabilities or circumstances that limit their opportunities for establishing and maintaining support networks.\textsuperscript{83}

In the literature, the prescriptive and descriptive stereotyping (cognitive bias) against mothers is recorded.\textsuperscript{84} The social judgment of the ‘choices’ women make about work

\textsuperscript{79} Proposals to increase the equality of taxation laws insofar as they impact upon parent-only carers at the work interface are discussed in Chapter 11.
\textsuperscript{80} Gambles, Lewis and Rapoport, above n 73, 87.
\textsuperscript{81} Sheila Kitzinger, Ourselves as mothers: The universal experience of motherhood (Addison-Wesley, 1995), 7.
\textsuperscript{82} See Chapter 5, for a discussion of the effects of occupational mobility on the isolation of the nuclear family.
\textsuperscript{83} Ironmonger, above n 36, 91.
\textsuperscript{84} Diana Burgess and Eugene Borgida, ‘Who women are, who women should be: Descriptive and prescriptive gender stereotyping in sex discrimination’ (1999) 5 Psychology, Public Policy and Law 655. In
and parenting is also well documented. Murphy and Probert argue that this flows from public discourse and social perspectives of the role of mothers as being to manage the household.\textsuperscript{85} Berns reports that there remains widespread social disapproval of working mothers.\textsuperscript{86} This can mean that mothers of young children feel ‘judged’ or socially disapproved of for working, or for not working.\textsuperscript{87} This ‘no win’ situation in which such mothers find themselves is important as it is a major factor contributing to the difficulties facing parent-only carers at the work interface. The rhetoric of choice will be explored in detail in Chapter 7.

\textbf{Seminal contribution to research}

This chapter has made a strong empirical contribution to the very limited literature on the phenomenon of parent-only care. There are a number of key findings documented in this research study that have not previously been explored in the extant empirical, theoretical or reflective literature. A key finding documented by this research is that those providing parent-only care fall within two groups: primary parents and shift-parents. The experience of these groups at the interface with labour market participation is significantly different. However, there are a number of core features of parent-only care common to both groups. These core features, as articulated by the research participants, include an understanding of the importance of the time spent with the child, prioritising parenting as their primary ‘job’ or ‘role’, recognising that the parent’s presence is important for the child, being available for the child where needed, engaging in the child’s world, being able to respond to the child’s changing needs and taking responsibility for the child. This seminal research has identified this constellation

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\textsuperscript{86} Berns, above n 77, 97.

\textsuperscript{87} Hochschild, above n 6, 242-243.
of core features of parent-only care, linked them together and developed a cohesive understanding of the phenomenon of parent-only care in Australia. The research provides a conceptual model that can be built upon by further research and thus has initiated and provided a firm foundation for further research on Australian families.

The qualitative literature has not considered the source of motivation to provide parent-only care. The research findings represent the first step in documenting, from the perspective of a subset of Australian parents, this phenomenon. The findings document that there are different sources of motivation to provide parent-only care, and provide insight into these factors.

Some scholars have recently challenged the delineation between ‘work’ and ‘home’ in a way that opens up the potential for the integration of children into the workplace.88 However, the meaning of ‘home’ from the perspective of parents of young children has not been explored to date. The finding that ‘home’ for parent-only carers is descriptive of the togetherness of the parent and child, rather than the now dated notion of a stay-at-home parent isolated from public life, is significant in broadening our understanding of the needs and priorities of this group.

As outlined above, many of the research participants spoke of their perception that there is a stigma attached to parent-only care – participants spoke of their feelings of isolation, alienation, guilt and insecurity. In other contexts, the literature documents that one of the ways in which the plight of those outside the mainstream in any socio-political spectrum is oft addressed is to stigmatise and blame that group.89 The research findings suggest that parent-only carers are subject to a similar type of stigmatisation, yet to date there is no literature that makes this link with respect to this phenomenon.

88 This literature is discussed in detail in Chapter 11, which presents proposals, developed from the empirical research and the literature, for moving towards the integration of work and parenting.
Conclusion

In this chapter, the participants’ insights on parent-only care have been presented. The research findings on the meaning of parent-only care and the reasons for providing parent-only care have been outlined and discussed within the context of the relevant literature. Shift-parenting as one means of providing parent-only care has been discussed, as have the difficulties created by the stigma of parent-only care. As the focus of this study is on the interface of parent-only care and work, an understanding of the phenomenon of parent-only care is critical.

There was a strong consensus in the data that at the heart of parent-only care was time. Being there for the child, availability to the child and responsiveness were considered integral and related aspects of this time commitment. The strong attachment and bond that was seen to develop from this was strongly respected by participants and there was an understanding of the child’s reliance on them. Parent-only care was highly valued and prioritized by the participants; parenting was seen by many as their ‘job’ for the duration of their child’s early childhood. The requirements of this job included taking on the responsibility of raising the child, which involved scaffolding their emotional development and resilience as well as looking after the child physically, teaching and playing with the child and engaging in their world and being a role model for the child, which included guiding the development of core family values.

Key reasons why participants provide parent-only care were stated to be an intuitive or instinctive response (this often only crystallized after the birth of the child); attachment and bonding with the child; that parent-only care was considered optimal for their child; breastfeeding; not wanting to miss out on any part of their child’s early childhood; belief in the importance of early childhood experiences and awareness of the fleeting duration of early childhood; and their perception of, and strong wish not to utilise, the available alternatives to parental care during the child’s first three years of life.

This final factor, the desire to avoid outsourcing the care of their child during the first
three years of life, not only emerged from the data as a significant factor motivating participants to provide parent-only care, it is the *raison d’etre* of parent-only care and was spoken of by the participants as a significant consideration that lay at the heart of their decision-making at the work-parenting interface. Because of the richness of the empirical findings on this issue and the complexity of the issues involved, childcare will be discussed as a separate chapter, in Chapter 4. Thus, the next chapter will represent the second half of the exploration of the phenomenon of parent-only care.
Chapter 4: The phenomenon of parent-only care: Why not childcare?

Introduction

The preceding chapter outlined the participants’ perspectives on the meaning of parent-only care and the reasons motivating them to provide parent-only care. From the participants’ stories, a richer understanding of the phenomenon of parent-only care emerges, along with the factors driving parents to become parent-only carers. These factors include: attachment and bonding, their perception of the best interests of their child, breastfeeding, not wanting to miss out on the time with their child and belief in the importance of early childhood experiences.

The final factor raised by research participants as significant to their decision to be a parent-only carer was their perception of the available alternatives to parental care during the child’s first three years of life. That this is a significant consideration for parent-only carers is unsurprising, as it is the desire to avoid outsourcing their child’s care that sets parent-only carers apart from other groups of parents and predominantly marginalizes them from the labour market at present. Childcare is perceived as the political solution to the problems created by the separate spheres model, yet it is not a solution for parent-only carers.

The participants’ perspectives on non-parental care options will be outlined in this chapter and then discussed within the context of insights from the literature. The alternatives to parental care that will be discussed are: institutional childcare and family day care (both types of ‘formal care’) and care by members of the extended family (‘informal care’).

There is now a well-established, predominantly privatized, childcare market in Australia. The growth of the childcare industry has been dramatic, particularly given that privately run childcare was not commonly available until the mid-1990s.1 In 2007, 67 per cent of children under three years of age were in formal childcare, with an average of 14 hours per week spent in care.2 The most recent ABS data reveals the distribution of this over age groups: over one

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third of children under one year old, 61% of one year olds, 71% of two year olds and 70.6% of three year olds are in childcare, excluding preschool.\(^3\)

In this discussion, ‘formal childcare’ is a reference to the care of children provided in childcare centres (also known as long day care centres and day nurseries) and in family day care. Formal childcare encompasses care provided by private operators for profit and not-for-profit community organizations managed by parent committees, as well as employer-sponsored childcare centres that are usually located within the same building or in close proximity to the employer’s premises (on-site care). Another type of formal childcare is family day care, which is a privately-run, home-based service within the family day care network. Family day care is provided by a family day care provider, often called a ‘family day care mum’, who looks after a small group of children (often including her own children) in her home. A further form of private care is that offered by nannies, who generally provide the care in the child’s own home, under a ‘live-in’ arrangement or during designated shifts.\(^4\) Finally, there is informal care, which is the care provided by relatives, friends and siblings; this care is outside the scope of government regulation.\(^5\) Many Australian families arrange their childcare such that it is dispersed between formal, informal and parental care.\(^6\)

The research findings on the participants’ stated unwillingness to outsource the care of their child, which was strongly linked to the age of their child, expectations and experiences with early childcare and perceived benefits and adverse features of childcare, will now be presented. The empirical findings will then be contextualized within relevant insights from the literature. The chapter will conclude with a brief digression into the politics of childcare to complete the

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3 ABS Cat No 4402.0, 2005: 14.
6 Qu and Wise report that approximately one third of children in some form of care use multiple forms of care, mostly a combination of formal and informal care: L Qu and S Wise, ‘Multiple Child Care Arrangements in Australia’ (2004) 69 Family Matters 56, 2.
discussion of this issue.

Research Findings

Unwillingness to outsource childcare while parenting in the ‘age of childcare’

In the words of one research participant, this is the ‘age of childcare’ (P2). The desire to avoid using formal childcare arrangements was discussed at length by many participants as a key impetus driving their decision to provide parent-only care. For the majority of participants, the reluctance to use formal childcare was two-pronged: it results firstly from the desire to provide parental care and avoid outsourcing the care of their child for the reasons discussed in the preceding chapter. Overriding the disparate concerns expressed by participants about childcare itself was the strong core belief, held by the majority of research participants, that parental care trumps non-parental care, irrespective of the quality of the childcare, during the first three years of life. One participant explained: ‘I had a lot of philosophical issues with putting a young child in day care... when she was younger I had a lot of issues with day care just because she’s my baby and she needs to be with me’ (P12). Second, as this chapter will outline, the reluctance to use formal childcare also results from an assessment of the problematic endemic features of formal childcare, including the perceived poor quality of care generally provided, the low infant-to-carer ratios, the length of time spent in care, concerns about leaving a young (perhaps non-verbal) child in the care of adults with whom a familiar and trusting relationship had not been established and concerns about the potentially adverse longer-term consequences of childcare.

The reluctance to outsource childcare was a major theme of the empirical data. Formal childcare was discussed by all of the participants at length. As the main alternative to parental care, it was one of the most frequently posited reasons behind the decision to provide parent-only care – a ‘driving force’ in the words of one research participant (P2). As this was such an important theme to the majority of participants, the following selection of quotes is presented to adequately represent the diversity of sentiments expressed during the in-depth interviews:
That was the only decision that we had to make. Do we want to put the kids in childcare? Yes or no. And for us it was a no. And then we worked our lives around that basically. We would have done whatever we had to do not to put them in childcare...[Childcare] might work for other people, but it’s not for us. (P2)

Avoiding [putting child in childcare is] really important to me (P12)

I wouldn’t put [child] in day care... I just couldn’t leave him. (P19)

As detailed in the previous chapter, a strong value for many participants was what was perceived ‘best for their child’. In the context of their desire not to use childcare, one participant expressed this value in the following way: ‘for us [childcare] just wasn’t right, it wasn’t about putting our kids first, being home with them’ (P1). The continuity and level of parental involvement in child-rearing is a significant aspect of what participants’ perceive is best for their child. As one participant stated: ‘it was very important to me to actually raise my own children’ (P7). Another participant explained: ‘we just really couldn’t imagine her being happy and as well looked after in formal day care’ (P22).

One participant, who was not providing parent-only care as a consequence of her job requirements but was regretful about her inability to do so, opined about her present centre-based childcare arrangements: ‘I don’t think it’s ideal to be honest. If I won lotto and didn’t have to work, I would not put the children in childcare. I think it’s better to have parent care, particularly mother care’ (P4).

The concern with the use of formal childcare was specifically in the context of early childcare (for children under three years old). Many participants considered there to be a stark contrast between the effects of childcare on young and older children. A typical statement to this effect was as follows:

When they’re so young I don’t think it’s beneficial in any way. When they get a bit older, yes, but now it’s really just somebody minding them, they’re not really getting anything from it I don’t feel at that age. At some point children need to learn to interact with other children in different situations, but I don’t think... it’s necessary when they’re really young. (P17)

Another participant opined:
I think by the time they’re a bit older and the bits of their brain that regulate emotions have grown a bit more and they can cope with situations on their own a bit more, that’s a different conversation. (P12)

This is further exemplified by another participant statement: ‘at the end of the day we feel that it’s most important that the kids get raised by their parents, not by anyone else, especially when they’re so little’ (P6).

A small number of participants were driven to provide parent-only care because of their perception of the lack of ‘good quality’ childcare available. Yet for the majority of participants, outsourcing care of children under the age of three years was never going to be a satisfactory option for them. It was thought that for young children childcare was in no way optimal or equivalent to parental care, irrespective of the quality of the care. As one participant reflected: ‘I wouldn’t put them in childcare even if they were really good quality childcare centres. Because under three I really think they need their parents to raise them’ (P6). This desire to be the one to raise their children was the core motivation behind the reluctance to outsource care, although other factors associated with childcare were relevant to the participants’ deliberations. These considerations will now be discussed.

**Formal childcare**

**a) The expectation and the experience**

The participants’ perspectives with respect to childcare were developed in one of two ways: perceived notions of what early childcare is, held by those participants who had not utilised formal childcare; and actual experience with early childcare, reported by participants with such experience. Interestingly, the expectations and experience of early childcare did not markedly differ. This may be attributable to the extent to which many participants had researched available childcare options, with many participants outlining a lengthy decision-making process that included broad research and visits to multiple childcare centres. One participant reflected: ‘I just felt really quite ill every time I’d visit a childcare centre and didn’t like the idea of leaving her’ (P14). Another participant explained: ‘We never could get day care for her that we were
happy with. She was accepted into one childcare, but we wouldn’t leave her there because it was just too horrible...’ (P5). Other participants noted the experiences of friends and relatives, as the following vignette illustrates:

I’ve heard people’s stories... a friend, when she put her daughter into childcare, perhaps [aged] six months, and went back full-time as a teacher. And the baby was formula-fed. And she went and picked up the child at the end of the day and the baby hadn’t been fed, they hadn’t even opened the baby’s bag... That’s terrible. (P13)

Another participant described visiting a popular childcare centre unannounced under the guise of a ‘mystery shopper’ in an attempt to gain a ‘behind the scenes’ look at the children’s experience. She reported: ‘I was quite shocked, not in a good way’ (P19). Other participants drew upon prior experience working in a childcare centre, as one participant explained:

When I was studying education, I worked in an after-school care, and that’s with primary school students. But some of the staff I worked with, it was just a job for them, they didn’t really care about the children. Well, that’s what I gathered, they didn’t say that, but just how they worked. (P13)

The following insight provided by one participant into her decision-making was not atypical:

We looked at the age they were and how happy they were to be with people they didn’t know. We looked at the ratios, especially kids-to-staff, we looked at the time they’d be there, we talked to people who’d worked in kindies and daycares and things about how the kids find it and how they cope. And they were talking about things like behaviour problems, that in long day care they tend to be worse. We looked, I think it was on Insight on SBS, they were talking about the effects of long day care on kids and we thought: ‘oh, we don’t like the sound of that, especially under two...’ And I guess we thought about socialization for them, you know, did we have enough opportunities for that to happen and how could we do that instead. And we looked at cost, and the logistics of transport, what would happen if we were sick, or if the carer was sick or away. (P22)

None of the participants reported any perceived benefits of early childcare. A majority of participants reported their expectation of the detrimental effects of early childcare, while many reported actual negative experiences with early childcare. A minority of participants reported positive experiences with early childcare. One participant was conscious of her preconceptions when visiting a childcare centre with her young child and noted:

I’m trying to give the day care a chance in case she actually likes it, I’m trying not to let my
experiences or my prejudices colour her reaction... [but] every time we go into the building she doesn’t want to be there. (P12)

One participant, who had used childcare with her now 17 month-old son, provided an in-depth insight into the actual experience:

He hasn’t enjoyed [childcare]... he found it very overwhelming to be away from me... [after nine months in care at the same centre] he still cries every time we drop him off... it’s horrible... today, someone wasn’t actually holding him when we left and so he runs to the door. And you just feel terrible... he’s just so much happier when we had that long stretch with no childcare [while on holidays]... it felt like he’s happier in himself and I feel like he’s developing better... I don’t think it’s really the place as such but I think it’s just being in a childcare environment... And all of it I think boils down to I think he’s too young for it... overall I don’t feel like it’s benefitted him in any way at this point in his life... [working] does come at that cost – dropping him off at childcare is just awful because he doesn’t like it. (P17)

A further participant spoke of her experience with institutional childcare as follows: ‘I didn’t enjoy having them in there. I didn’t like the service they provided, I wasn’t happy with the outcomes I was getting from them. So I took [the children] out’ (P21).

b) Perceived positive features of formal childcare

A minority of participants noted positive experiences with early childcare. These comments were predominantly made in the context of family day care, where it was considered that the ‘right’ day care ‘mother’ could, over a lengthy period, develop a close and caring relationship with the child. In this regard, participants likened the family day care ‘mother’ as akin to an extended family member or ‘alloparent’ in traditional societies. One participant who had been very happy with a family day care provider stated: ‘she was a wonderful woman, it was a perfect situation’ (P21). The family day care provider was considered ‘part of the family’, with regular social contact maintained with the carer and her family beyond the tenure of the day care arrangements. Another participant said of her family day care provider: ‘she was an excellent fit. And I brought a huge list of questions for her and she answered them all’ (P14).

The potential for a close relationship to develop among carer and child and the continuity of care a family day care setting can potentially offer were valued by some research participants and a basis for preferring family day care to centre-based childcare. However, the limited
tenure of the relationship, in contrast to the continuity of a parent-child relationship, was noted. Some participants were also wary of utilizing family day care for safety reasons, as one participant who had worked in child safety explained: ‘I think it’s a great model but I worry too much about their safety. And I’ve had a few friends tell horror stories’ (P10), but the interviewee didn’t elaborate on this.

One research participant expressed happiness with the care provided at a ‘small, community childcare centre’, in the context of a comparison with other childcare experiences. Reasons proffered for this centred on the teaching staff and their capacity and dedication to establishing a strong, supportive relationship with the child. The participant explained: ‘we were really happy with the teachers there and the level of care that they were getting and support’ (P9). She contrasted this with the very institutionalised childcare they had previously experienced, at a centre staffed by ‘indifferent’ caregivers who failed to properly ensure the physical safety, let alone emotional wellbeing, of the children. While noting that this community-based childcare experience was much more favourable than other experiences, this participant explained that she considered it inferior to parental care, with the use of outsourced care something she would have preferred to avoid.

c) Perceived negative features of formal childcare

Many participants expressed perspectives about the negative features of formal childcare. Key areas of concern for research participants included the quality of care, staff-to-child ratios, the length of time spent in care, concerns about attachment, reservations about leaving a young, non-verbal child in the care of virtual strangers and the increased likelihood of the child suffering developmental and social problems. For some participants, many or all of these issues were relevant as one participant explained:

I don’t think that my son was particularly happy [in childcare]. And there were a lot of things I didn’t like about it and there were a lot of reasons for that. He’d come out of there with other people’s nappies on. He’d come out once with his shorts on backwards. We’d [arrive to collect him] and he was [in] a swing, like a chair, so the big kids couldn’t get to the little kids, he was only little then. And they used to do a lot of things I didn’t like. (P8)
Another participant stated: ‘I’ve actually had a day where I’ve had to go and pick him up [early from childcare] because he was just so upset’ (P17).

Firstly, the quality of childcare was a significant issue for many participants. While there is a move towards increased regulation and education for childcare workers, the current work standard and ethic is perceived to be low, as the following blunt statements reveal:

The quality’s just not there. (P7)

We don’t have good quality childcare in Australia... they’ve put out millions of reports about it, we’re way down the bottom of the list. (P2)

Another participant cautiously stated:

With babies and young children, it’s such an important time in their life for learning and you know they have such curiosity about the world and everything, so you’d want someone to really encourage that... if someone wasn’t really motivated in their job or just a bit half-hearted, I wouldn’t really feel comfortable with that. (P13)

For some participants, their experience of formal childcare was inconsistent. As one research participant simply expressed: ‘care really does differ’ (P15). Some participants considered the quality of care provided to depend to a large extent upon the staff employed at the time by the relevant centre – as one participant explained: ‘it was only as good as the teacher at the time’ (P10). Another explained that her key reservations about using childcare were: ‘the quality and that issue of trust as well, to know what sort of care [child] is receiving’ (P13).

A further primary concern for many participants was the ratios of staff to infants in childcare centres and the resulting inability for a strong attachment relationship to develop between carer and child. As attachment and bonding was one of the core reasons motivating participants to provide parent-only care, it is consistent that they sought to avoid a childcare arrangement which was perceived not to facilitate the development of attachments. One participant expressed: ‘I think there’s research about what happens to kids when they have one-on-one bonding, versus when they have one-on-many’ (P4). Another stated: ‘I really feel [in] the childcare centres that they don’t get the one-on-one that they really need’ (P7).
care for most research participants. It is thus understandable that a setting in which bonding was not possible or probable was of fundamental concern. One participant explained:

[...]you see a lot of kids who have behavioural issues or they’re really competitive because in a childcare environment... you’ve got to be loud... you’ve got to be heard, there’s no one-on-one time, there’s no physical affection... and that’s not the childcare workers’ fault, there’s just not a high enough ratio... (P2)

Another participant, who is a child psychiatrist and so in a unique position to comment on this issue, stated:

Putting young children into long day care is not actually good. It’s not good for their brain development, it’s not good for their social and emotional development. And there’s now a lot of research coming out... there’s a lot of complaints about the ratios here, which a lot of experts consider to be inadequate. (P20)

A further participant explained:

There’s not enough people in day care. One to four for infants or babies... one carer per five [older] kids is not enough attention. It’s crowd control, that’s all it is. So one carer, two carers in a room with ten kids gives you enough people to change their nappies, get the food out, clean up after the food, press play on the tape player so that they can do a dance, and that’s about it. It doesn’t give them any one-to-one time with the kids, it doesn’t give them a chance to talk with the kids... afternoons at day care, they take everybody outside and they can have less carers ‘cause the age range is bigger, I think you can have one to seven instead of one to five or one to four. That’s not enough supervision. We were there for checking it out the other week, and one of the other kids walked up and bit her because she was bored. And we’d been there for five minutes. It’s not enough supervision. (P12)

She likened the ratio of carers-to-children to crowd control, stating:

It’s crowd control, that’s all it is... day care is not optimal care...it feels very mechanical, like these are the minimal things we need to do to keep these children from losing their minds... I guess what it comes back to is a child under three needs a lot of attention to really function as a happy child. (P12)

This participant stated that the thinly-stretched childcare workers were able to do little more than look after the children’s basic physical needs; the resources did not allow for care of the children’s ‘huge’ emotional needs. Some participants spoke of the importance of responsiveness in developing trust in children and the difficulty for childcare workers to provide this due to staff-to-child ratios.
Another key issue for many participants is the length of time the child would need to spend in childcare to accommodate an ‘ordinary’ working day. One participant explained:

My poor kids, being in day care from seven, twenty past seven in the morning until five o’clock at night was just horrendous... And that was having a nice nine to five job! ... And not only did I find it hard, but my kids found it really hard to be anywhere for such a long time. They were long days.’ (P10).

In the words of another participant: ‘[It’s] a ridiculously long time. Even if we tried, one of us to finish [work] early and one of us to start late, to try to make the [childcare] day as short as we could, it was still going to be a really long time’ (P22). A further participant opined: ‘I don’t necessarily think daycare’s bad, but long day care, five days a week, with [current] ratio... is bad’ (P20).

Many participants also expressed their concerns about leaving a young child, with an immature narrative memory and pre-verbal or elementary vocabulary, in the care of virtual strangers. As one focus group participant explained: ‘I guess it’s the uncertainty. It’s your child, you’ve got everything, all your emotions are invested in them and you don’t know what somebody else is going to be doing with them’ (FGP4).

d) On-site childcare

While not considered ideal, some participants noted that on-site childcare was potentially preferable to other formal childcare options. None of the participants had access to on-site childcare so all were speaking from assumption rather than experience. The main advantage to on-site childcare was considered to be the close proximity of the children, which minimised time spent away from the children and potentially allowed the parent to check on, comfort, breastfeed and spend time with the child during the workday. One participant explained:

On-site childcare, you can actually have some involvement with your child during the day [it’s] certainly more attractive than dropping your child off somewhere and then going somewhere completely different for the day. (P1)

Another participant, in a statement representative of the sentiments of all participants who spoke of this issue, stated:
It’s quite unnatural being such a distance from your child so that you can’t check on them, you can’t breastfeed them, you can’t get to them quickly if you need to. If you’re working on one side of town, they’re in childcare on the other side of town, it makes it more difficult. (P19)

Having increased peace of mind due to knowledge of their child’s safety and proximity was expected to enable parents to concentrate more on their work. Yet while considered preferable to other types of formal childcare for some participants, it remained a secondary preference to parent-only care for all participants, as the following vignette exemplifies:

On-site childcare, where you can actually have some involvement with your child during the day, may be an option for some people. It’s certainly more attractive than dropping your child off somewhere and then going somewhere completely different for the day. [I: If your employer offered something like that, would that have been attractive to you?] No, probably not [laughs]. I guess that’s saying you can pop in and see your child, but you’re not being the primary carer... any sort of childcare, it’s quite structured, it’s real institutional care. (P1)

The empirical data thus reveals a strong reluctance by participants to use formal childcare, irrespective of the quality, although serious concerns were expressed by many participants about quality of care issues. A discussion of childcare in Australia must necessarily include a discussion of informal care arrangements. Consistent with demographic details, there was a reasonable incidence of informal care arrangements among research participants. Intra-familial care, preferred by most research participants to formal childcare, will now be considered.

**Informal childcare**

Some participants spoke of arrangements where the care of the child was shared with grandparents or close relatives. For the research participants, such arrangements were generally reported to work well for all parties. The specific advantages and concerns with respect to informal childcare posited by the research participants will now be discussed.

a) **Perceived advantages of informal childcare**

Many participants expressed the belief that they considered informal childcare to be preferable to formal childcare. One participant, referring to her arrangement whereby part-time informal care was provided for her children by their grandmother and aunt, stated: ‘I’m just so lucky that
everyone is prepared to do this for us’ (P22). In the words of another:

So my mother does basically a full day of care, my father runs his own business and so he does between a half day and a full day of care per week as I need it. And so I’m completely spoilt, this is the most ultimate scenario you’re ever going to hear I think... (P12)

_reported benefits include, firstly, the development of close relationships between members of the extended family and the ability for the child to experience continuity of care by a care-giver to whom the child is attached. One participant said: ‘it’s been a very special thing for them too’ (P9). Another noted: ‘the grandmothers love having the time with them’ (P21). A further participant reflected:

My sister and my mum look after both girls, and that works really well because my sister’s got two kids of similar ages, so they play together. It’s really nice for the grandparents and the kids, and my sister as an aunt. And we do the same for her on a Monday. Which works beautifully, fabulous, thanks to my mum...I think it’s been really good for the relationships as well. And it’s been really supportive for my sister and I, just to have a day of parenting with company, especially with your own mum helping. (P22)

Additionally, the arrangements were reported to generate trust by the parents in the carers and confidence in the level of care given to the child. As one participant noted: ‘that’s why I’d prefer my mum to be looking after him [upon return to work], because [child] would know my mum and I really trust her’ (P13). For participants with working arrangements that enabled home-work, it allowed close proximity to their child, as one participant explained: ‘I work upstairs and when I need to... I go down and give her a breastfeed’ (P12).

The arrangements were also valued for their flexibility, as care arrangements could generally be altered to suit changing work requirements. This is exemplified by the following participant comments:

I can call my mother-in-law and say these people need to talk to me at 8.30, so can you come over a bit earlier. It does make it a lot easier, because you’re not stuck on [childcare centre-imposed] time frames. (P21)

It does reach the point where I say: ‘someone has to take this child to let me do two hours work or I’m going to go insane!’ And my dad’s very, very good... if I’ve got a meeting that has to happen at a specific time or I need two hours to do something, he’ll take her and do something with her. (P12)
Fiscal advantages to such arrangements were also mentioned by a minority of participants, yet likely experienced by the majority with such arrangements.

For the minority of research participants who were able to reach arrangements with extended family members to cover the care of their child, there was a general consensus that such arrangements could work well. They had benefits for the parents and child, in facilitating parental involvement in the labour market while avoiding the use of formal childcare. They could also benefit the carer, although the associated restrictions and demands on the carer were also noted. From the participants’ perspectives, such arrangements were not equivalent to parent-only care, yet were the next best option.

b) Perceived disadvantages of informal childcare

The research findings reveal that there are some perceived drawbacks associated with informal childcare, including the often tenuous nature of the arrangements which depend on goodwill, availability and circumstance, as the following participant insights demonstrate:

We’ll see, it’s [husband’s] parents and they’re not getting younger... maybe [child] will only go to them for this year, I think... Just so they can be free to do what they want to do. (P9)

She’ll do the rest of this year so after that we’re going to revisit and see... And same with my mother-in-law, she’s said ‘I can manage it this year and then we’ll see what’s happening next year’. It depends on goodwill, really, and what else is happening in their lives. (P22)

There were also concerns expressed by some research participants about the demands caring for young children can create, particularly where the care is provided by elderly family members. This was reflected in the participants’ stories, as exemplified by the following comments:

I think [child] was a little bit much for her... he’s quite a big boy... he’s quite strong... mum’s 65 now. (P19)

We’re really happy that we have so far managed to work it out this way. You know, it’s huge favours to ask, and obviously has impacts on family as well, but it’s just been fantastic for them so far. I think there are days where it’s a long day for my mum, and she probably gets home and sleeps very well at night. (P22)
Many participants also spoke about not having appropriate family members able to provide informal childcare. For many, care by an extended family member is not an option due to the absence of a relative in close proximity with the ability, willingness and availability to care for the child. As one participant stated: ‘we don’t have any family around that could look after him, which would have been better’ (P17). This issue was also discussed at length in the focus group, a small vignette of which is provided to illustrate the participants’ insights into the importance of family support and the common experience of lacking such support:

P7: I’m surprised how many of my friends, like us, have no family support.
P3: I don’t have any support here either.
P7: [Name of other focus group participant is] the exception with her mother two blocks away.
P4: But we used to live in Sydney, and when we were considering having a child we actually moved back to Brisbane because my parents were here. That was a conscious decision because my husband is from Sydney, both his parents have passed away, so if we wanted a better support network it would have to be in Brisbane so we did actually move for that sole purpose. We didn’t mean to move quite so close, but we are very close, so we’re lucky in that regard.

(FGPs)

Discussion

Having outlined the empirical findings on the participants’ reluctance to utilise childcare for their young children, and the professed reasons underpinning this reluctance, the chapter will now consider the empirical findings in the context of the relevant literature. There is a very limited body of literature that has considered the perspective of parent-only carers of young children as to why childcare is not a solution for them. However, this is supplemented by a more extensive body of literature documenting and reflecting on childcare more generally. This chapter will now discuss this literature, and the contribution the insights from the empirical findings provide in terms of affirming, contradicting and extending the existing literature.

Initiating a new direction in Australian empirical research literature

To date, there has been no Australian empirical research that has explored, within a qualitative methodological framework, the perspective of parent-only carers with respect to childcare. In recent times, issues pertaining to childcare, most notably the availability, cost and quality of institutional childcare, have been launched to the forefront of public debate and have attracted
significant interest from politicians, policy makers and social scientists.\textsuperscript{7} There is an increasing body of largely quantitative empirical Australian research that has explored early childcare usage within Australia – the Australian Bureau of Statistics (ABS) has generated various data collections on aspects of childcare provision, which has been the basis for researchers to empirically assess childcare policy.\textsuperscript{8} To date, such research has been predominantly situated within the ambit of economic study,\textsuperscript{9} and was initially concerned with the issues of supply and demand\textsuperscript{10} and the desirability of subsidising childcare.\textsuperscript{11}

There is now a substantial body of research documenting parental (usually maternal) perspectives with respect to childcare selection and the types of childcare available.\textsuperscript{12} This body of research provides insight into parental perspectives with respect to the advantages and disadvantages of different types of care options. However, this literature does not provide insight into the perspectives of those parents who do not use childcare.

\textsuperscript{7} Deborah Cobb-Clark, Amy Liu and Deborah Mitchell, ‘Reassessing the role of child care costs in the work and care decisions of Australian families’ (2000) 26(4) \textit{Australian Bulletin of Labour} 279.
\textsuperscript{8} Cobb-Clark, Liu and Mitchell, above n 7.
\textsuperscript{9} This may be attributable to the coupling of access to childcare with female participation in the workforce: Kelly Hand, ‘Mothers’ views on using formal child care’ (2005) 70 \textit{Family Matters} 10. Economic studies have been instrumental in highlighting the important role of childcare costs in employment decisions made by parents of young children: Cobb-Clark, Liu and Mitchell, above n 7.
There is a limited body of Australian qualitative research exploring mothers’ views of and use of childcare that provides some insight into the perspectives of parent-only carers with respect to childcare. One branch of the work and family literature has considered the way in which mothers’ views on what constitutes ‘good’ mothering shape their decision-making as to whether to utilise childcare.\(^\text{13}\)

A two-part study conducted by the Australian Institute of Family Studies, *The Family and Work Decisions Study*, consisting of a telephone survey and in-depth interviews, examined Australian mothers’ beliefs about childcare, the reasons why they may use childcare and how decisions with respect to childcare are made.\(^\text{14}\) A conclusion drawn from this research study was that maternal differences and preferences with respect to formal childcare were closely linked to their beliefs about motherhood and what they perceived best for their children.\(^\text{15}\)

Reid-Boyd’s doctoral research explored the childcare debate between at home and at work mothers (colloquially known as the ‘mother wars’). Her study included 20 in-depth interviews with mothers in Western Australia and incidentally documents some of the reasons why ‘at-home’ (non-working) mothers choose to stay home with their children. As noted in the preceding chapter, this centres around the value of ‘being there’ for their children.\(^\text{16}\) Probert’s qualitative interviews with a subset of women who had been mothers in the 1950s also records views expressed by these women with respect to childcare.\(^\text{17}\)

A slightly larger body of relevant qualitative research has been conducted overseas. Research in the United Kingdom has explored maternal decision-making with respect to the use of

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15 Hand, above n 9, 16; Hand and Hughes, above n 14.
17 Probert, above n 13, 12.
childcare.\textsuperscript{18} Duncan et al examined childcare choices among women classified according to ‘class, conventionality, ethnicity and sexuality’ and challenges the assumption that childcare is seen, by both policy-makers and parents, primarily in economic terms.\textsuperscript{19} They conclude that childcare choices made by women are the result of a combination of their consideration of their children’s needs, their own needs and the balance between the two.\textsuperscript{20} Relevant to the research findings, Duncan et al document that a subset of their mothers preferred to avoid using formal childcare where possible due to their belief that such care could not provide the ‘one to one’ emotional care they wanted for their children.\textsuperscript{21} Himmelweit and Sigala explored the interface between mothering identity and mothering behaviour and the way in which this impacts on the choices a subset of mothers make with respect to childcare, as well as the internal and external constraints limiting mothers’ decision-making.\textsuperscript{22} In the United States, qualitative research has examined the key factors influencing choices by dual-earner couples about childcare, classifying parents on the basis of their parenting ideology and examining the way in which this shapes their decision-making with respect to childcare.\textsuperscript{23}

**Research findings which resonate with the literature**

As noted above, the perspectives of parent-only carers with respect to childcare have not previously been documented. However, a number of the findings of this research affirm the more general literature on early childcare. The research finding that the reluctance by parents to utilise formal childcare for young children can stem predominantly from concerns about the child’s experience whilst in care resonates with contemporary Australian research into childcare. A 2005 study conducted by the University of Queensland documented that the primary consideration for many of the parents surveyed lay not with affordability or accessibility of childcare, but with concern for their child’s welfare.\textsuperscript{24} Research by the Australian Institute of Family Studies documents the concerns held by Australian mothers about the

\textsuperscript{18} Duncan, Edwards, Reynolds and Alldred, above n 12; Himmelweit and Sigala, above n 13.
\textsuperscript{19} Duncan, Edwards, Reynolds and Alldred, above n 12, 256.
\textsuperscript{20} Duncan, Edwards, Reynolds and Alldred, above n 12.
\textsuperscript{21} Ibid.
\textsuperscript{22} Himmelweit and Sigala, above n 13. This study will be discussed further in Chapter 7.
quality of care provided in formal childcare centres and the way in which this factor, as one among other considerations, shapes their decision-making about whether or not to use childcare.  

Ironmonger’s research on sole parent women found that the women’s ability to care for their children was a ‘major factor affecting their choices regarding labour market participation’. He noted: ‘they were not simply concerned with inadequate childcare facilities, but expressed a strong desire to care for their children and emphasized the importance of their children’s needs.’ In the literature, the parental preference for parent, particularly mother, care of very young children is noted. Research predictions are that parental care of young children ‘is likely to remain a strong preference in future households’ in Australia.

There is a wealth of contemporaneous research that has explored the experience and effects of formal childcare in early childhood. As descriptive phenomenological research, it is not the concern of this thesis to explore the polarities of this debate, or to justify the participants’ position with respect to their unwillingness to utilise formal childcare. However, given the extent of the research literature on this topic, and the centrality of this issue to an understanding of the phenomenon of parent-only care, it is important to briefly chart the relevant theoretical literature and to acknowledge, as is appropriate in light of the findings of this literature, that the participants’ concerns about the use of formal childcare for children in their first three years of life is a valid position, supported by credible, recent research. A brief overview of this research will now be provided.

Concerns with the quality of childcare available in Australia are well-documented in the

25 Hand, above n 9, 14.
28 Pocock, above n 1, 187.
literature. This concern has been heightened by the rapid growth in the privatized childcare industry in the past decade, with demand for formal childcare outstripping supply and creating a seller’s market. The current extensive use of childcare has overtaken planned policy or research into the effects of different care arrangements for young children. Pocock notes: ‘the character of our childcare “system” increasingly affects both the public and private realms, with international evidence showing that uncontrolled evolution has potentially hazardous outcomes’. Shonkoff and Phillips liken the shift in the care of the majority of young children to ‘extensive hours in non-parental childcare settings’ to a ‘dramatic, uncontrolled natural experiment’. Pocock is concerned about the largely privatized nature of childcare, arguing that despite the neo-liberal emphasis on minimal regulation, ‘fragile products with long-term effects like childcare’ need ‘very significant, coherent and adequately enforced programs of regulation’, which favours the public or not-for-profit provision of early childcare. She states:

The current growth in private school education is underpinned by the promise of a free place for each Australian child in a public school, regardless of where they may live and whether they use it. The failure to offer the same for younger children and babies is hard to justify, given the larger life-long ripples that flow from poor care in infancy and the early years.

It is well established that industrial conditions for childcare workers are poor. As Jacobs and Gerson state: ‘in a society that fails to accord appropriate social or economic value to the care of children, all child-care workers (like all involved parents) face disadvantage and discrimination’. This can result in high staff turnover, which was a concern for many participants due to the resultant lack of continuity of care and opportunities for the child to bond with the carers.

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29 For a discussion of some of the concerns pertaining to the quality of childcare that are created by the development of a for-profit childcare market, see: Pocock, above n 1, 15, 154-189.
30 Pocock, above n 1, 166.
32 Pocock, above n 1, 217.
33 Pocock, above n 1, 166.
34 Pocock, above n 1, 185-6.
The wide variation in the level of care available, with predominantly sub-standard care dominating the market, is also documented as a significant concern in the literature. Neal et al state:

There appears to be wide variation in the quality of care provided within each of the major types of child care... Few work-family issues are more disturbing than those related to the quality of care...

Berns notes that ‘[h]igh quality childcare ought not to be confused with infant and child warehousing services’. Jacobs and Gerson similarly argue that without high-quality childcare for young children, parents are forced to choose between ‘providing for their children’s economic needs and providing for their children’s psychological and emotional development’. The quality of childcare in Australia is routinely deplored in the popular press, yet this is generally in the context of the ‘mother wars’ and not in terms of the community or government-level problem that it is.

Harrison, Love et al, Buckingham and Cook all note that that the research on childcare and socio-emotional development is mixed, inconclusive and at times contradictory; they attribute this to the many and complex variables, imperfect research instruments and diverse research contexts. However, the research participants’ concerns about the adverse effects of formal childcare on young children find support in a number of research studies into early childcare. In outlining the risks of non-parental care in early childhood Cook notes Morgan’s

39 Jacobs and Gerson, above n 35, 171.
40 See for example media headlines such as Anne Manne, ‘Children ignored as martyrs go to war’, Weekend Australian Review, 4-5 July 1998; Angela Shanahan, ‘Social engineering aside, mum is not a dirty word’, Australian, 25 August 1999; Peter Cook, ‘Home truths absent in early childcare debate’, Australian, 24 March 1999.
44 Cook, above n 36.
analysis of the ‘mounting evidence of adverse side-effects’ of childcare.\textsuperscript{45} Violato’s cross-national meta-analysis of the findings of 88 different studies into the outcomes of childcare, involving 22,062 children, similarly found numerous adverse effects associated with non-maternal care and no support for the adequacy of childcare as a substitute for parental care, irrespective of the quality.\textsuperscript{46} Buckingham similarly notes that the limited Australian research has generally been confined to the quality of childcare and, while it unsurprisingly establishes that high-quality care results in better outcomes than low-quality care, the research has not shown that any quality of care is superior to parental care for young children.\textsuperscript{47} Neufeld and Mate state: ‘[Childcare] is risky business. Children find day care stressful, as recent studies have shown. The level of the stress hormone cortisol is higher in children at day care than at home...’\textsuperscript{48}

In minimizing the adverse effects of long day care for young children, high quality care is linked to more positive outcomes.\textsuperscript{49} As Pocock notes, ‘the price of poor quality care is high’.\textsuperscript{50} In 1997 Loane recorded the significant variation that exists in childcare quality in Australia and sought an improvement in standards;\textsuperscript{51} core problems included the standards of safety, child management, health and nutrition. A decade later, Brennan reported that standards had further declined.\textsuperscript{52} Leach’s extensive research into the beliefs of early childhood professionals found they predominantly privately consider parental care best for young children.\textsuperscript{53} With the exception of care for children from disadvantaged or abusive home environments,\textsuperscript{54} there is

\textsuperscript{45} Patricia Morgan, \textit{Who needs parents? The effects of childcare and early education on children in Britain and the USA} (Institute of Economic Affairs, 1996).
\textsuperscript{47} Buckingham, above n 43.
\textsuperscript{48} Gordon Neufeld and Gabor Mate, \textit{Hold on to your kids: Why parents need to matter more than peers} (Ballantine Books, 2006), 239-240.
\textsuperscript{49} Harrison, above n 41; Love, et al, above n 42; M Sims, A Guilfoyle and T Parry, ‘What cortisol levels tell us about quality in child care centres’ (2005) 30(2) \textit{Australian Journal of Early Childhood} 29.
\textsuperscript{50} Pocock, above n 1, 39.
\textsuperscript{51} Loane, above n 36.
\textsuperscript{53} Penelope Leach, ‘Infant care from infants' viewpoint: the views of some professionals’ (1997) 6 \textit{Early Development and Parenting} 47.
\textsuperscript{54} Buckingham, above n 43.
little research on the benefits of childcare, in terms of its effect on children, for children under three years of age.\textsuperscript{55}

Some of the specific concerns posited by the research participants were, firstly, linked to the young age of the child. The findings are that all of the research participants considered this to be a primary consideration in terms of the appropriateness of non-parental care. There is expert support for these sentiments. Many scholars note the significant difference between care for children under three years of age and older children.\textsuperscript{56} The documented benefits for children that flow from their parents’ work are, with the exception of increased family finances, predominantly recorded in the context of older children.\textsuperscript{57}

Secondly, many participants’ expressed the view that a key consideration that weighed against the use of formal childcare pertained to the desire to nourish a strong bond or attachment with their child. In the absence of parental care, it was considered crucial that the child be afforded the opportunity to develop a strong bond with the substitute care-giver. A majority of research participants expressed the view that factors relating to bonding and attachment were not on the agenda of most childcare providers, and were made very difficult by high child-to-carer ratios and frequent staff turnover. These concerns resonate with the literature – a primary critique of early childcare is that it generally does not foster the development of an attachment relationship between carer and child.\textsuperscript{58} Key dynamics associated with staff-child ratios of

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\textsuperscript{55}Reporting on the results of qualitative research with mothers conducted by the Australian Institute of Family Studies, Hand notes that, for some mothers, childcare was considered to offer benefits such as opportunities for socialization with other children and education: Hand, above n 9.

\textsuperscript{56}Gray, Baxter and Alexander, above n 27, 43; Buckingham, above n 43; Isabel Fox, ‘Meeting Children’s Needs for a Stable Caregiver’, Interview with Attachment Parenting International (Teleseminar, 25 August 2009).

\textsuperscript{57} Ella Kahu and Mandy Morgan, ‘Making Choices: Contradictions and Commonalities in the Valuing of Caring and Working by Government Policy and First Time Mothers’ (2008) 11 NZ Research in ECE Journal 1; Karen Mitchell, \textit{Careers and Motherhood Challenges and Choices: How to successfully manage your career through pregnancy, birth and motherhood} (McGraw-Hill Australia, 2004), 261-263; Mervyl McPherson, \textit{New Zealand cultural norms of parenting and childcare and how these relate to labour force participation decisions and requirements} (Families Commission, 2006); Fox, above n 56.

\textsuperscript{58}See for example Robin Grille, \textit{Parenting for a Peaceful World} (Longueville Media, 2005).
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concern to participants included the lack of ‘one-on-one’ interaction and the insufficient level of supervision.\textsuperscript{59}

As a related issue, many participants expressed concerns about the ability of childcare workers to provide an appropriate level of responsiveness to the children in their care. This is consistent with the literature, where concerns about inadequate carer-child ratios that fail to meet professional recommendations, underpinned by attachment theory, provoke the main critiques of institutional childcare.\textsuperscript{60} The recent and imminent reforms by the federal government constitute only minor improvement.\textsuperscript{61}

A further concern about childcare for young children posited by the research findings is that of trust. Many participants raised as a significant factor in their decision-making to provide parent-only care that it was important for them to be able to develop trust in the person caring for their young child, and for the child to also develop familiarity and trust in the carer. This concern is acknowledged in the literature, where it is noted that the care of children under three years of age is complicated by their inability to accurately recount their experiences whilst in care.\textsuperscript{62}

Within the ambit of formal childcare, some participants discussed on-site childcare and family daycare as options that offered greater benefits than institutional childcare centres and were thus a more attractive option, in the event that they were unable to provide parent-only care. In the literature, the benefits of on-site childcare are noted, with advantages reported for companies that offer on-site childcare in terms of increased employee productivity and

\begin{footnotes}
\textsuperscript{59}Cook, above n 36; Morgan, above n 45; Loane, above n 36; D Hope, ‘Spare the non-maternal care and nurture the child’, The Australian, 4 June 1998; F Press, What about the kids? Policy directions for improving the experiences of infants and young children in a changing world (NSW Commission for Children and Young People, Queensland Commission for Children and Young People and the National Investment for the Early Years, 2006, 37; the results of a large-scale University of Queensland research study in 2005 established that that many parents and experts consider the accredited childcare ratios for infants under two inadequate: Dux and Simic, above n 24, 105.

\textsuperscript{60}Cook, above n 36; Morgan, above n 45; Loane, above n 36; Hope, above n 59; Press, above n 59, 37.

\textsuperscript{61}The reforms impose a mandatory federal ratio of one carer to four children under two years of age (the ratio was previously 1:5), a ratio of one carer to 11 children aged 2 years and over, and impose increasing education requirements on childcare workers. The reforms took effect from 1 January 2012 for children under two and will take effect from January 2016 for the older group of children.

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decreased absenteeism.\textsuperscript{63} The effects for children have not been documented. That the family daycare model is considered superior to institutional childcare from an attachment perspective has also been recognized in the literature.\textsuperscript{64} The perspectives of Australian mothers with respect to choosing between centre-based care and family daycare has been documented elsewhere.\textsuperscript{65}

Informal childcare was discussed at length by many of the research participants. Many of their sentiments resonate with the growing body of literature on informal childcare. The research interest in informal childcare is unsurprising, given that the incidence of informal care arrangements in Australia is presently significant.\textsuperscript{66} Informal childcare is the most frequently utilised form of childcare in Australia.\textsuperscript{67} Of the informal caregivers, grandparents provide the most significant amount of childcare.\textsuperscript{68}

The research findings are that informal childcare offers many benefits over formal childcare for young children. The literature also documents a positive correlation between informal care provided by grandparents, when compared with formal childcare, on behavioural and social competence outcomes.\textsuperscript{69}

\textsuperscript{63} Neal, Chapman, Ingersoll-Dayton and Emlen, above n 37, 226.
\textsuperscript{64} Fox, above n 56.
\textsuperscript{65} Hand, above n 9; L Da Silva and S Wise, ‘Parent perspectives on child care quality in a culturally diverse sample’, paper presented at the 9\textsuperscript{th} Australian Institute of Family Studies Conference, Melbourne, 2005.
\textsuperscript{66} Data from the 2006 Census indicates that 22.6\% of women and 12.8\% of men in the 55 to 64 age group, and 16.9\% of women and 12.1\% of men in the 65 to 74 age group are providing informal care: Graeme Hugo, ‘New questions in the 2006 population census: Some initial findings’ (2007) 15(3) People and Place 53, 65. Anne Summers, The End of Equality: Work, Babies and Women’s Choices in 21\textsuperscript{st} Century Australia (Random House, 2003), 57 says half of all working parents use informal care arrangements (family, neighbours or shared care). Belinda Probert, ‘Women’s working lives’, in Kate Pritchard Hughes (ed), Contemporary Australian Feminism (Longman Cheshire, 1997), 326 notes that the majority of Australian families use informal care arrangements.
\textsuperscript{67} It is the most frequently used form of childcare in Australia: Brennan, above n 5.
\textsuperscript{69} Matthew Gray and Diana Smart, ‘Growing up in Australia: the Longitudinal Study of Australian Children is now walking and talking’ (2008) 79 Family Matters 5, 12
Some of the concerns posited by the research findings about informal care arrangements are also noted in the literature. One such concern pertains to the demands being made on grandparents to care for young children,\textsuperscript{70} as the Australia Bureau of Statistics reports: \textsuperscript{71}

[W]hile grandparents may enjoy this caring role, it has the potential to affect aspects of their lives such as their income, health, or access to free time, particularly if they provide large amounts of care.

Furthermore, there is a significant percentage of Australian parents who do not have a relative in geographical proximity who can potentially provide care for the child.\textsuperscript{72} For others with grandparents in physical proximity, their capacity to provide childcare may be limited for health-related reasons or due to the rising participation rate of older workers in the labour market.\textsuperscript{73}

\textbf{The politics of childcare}

To understand the structural framework that presently exists with respect to childcare, it is appropriate at this point to briefly digress into the politics of childcare. In understanding participants’ perspectives on who cares for their children, it is helpful to consider the growth and normalization of childcare in Australia. Encel and Campbell\textsuperscript{74} and Brennan\textsuperscript{75} have chronicled the ideological development of the childcare debate in Australia. Childcare has formally been on the political agenda in Australia since the 1970s, and has been a mainstream issue since 1993.\textsuperscript{76} Yet since the passage of the first \textit{Child Care Act} in 1972, government initiatives have been cursory and employers have not taken responsibility for the provision of

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\item \textsuperscript{70} Penny Warner-Smith, Christine Everingham and Jess Ford, ‘Mid-age Women’s Experiences of Work and Expectations of Retirement’ (2006) 40 Just Policy 45.
\item \textsuperscript{73} As Pocock notes, this is encouraged by government policy as a response to the challenge of an aging labour force: Pocock, above n 1, 215.
\item \textsuperscript{74} Solomon Encel and Dorothy Campbell, \textit{Out of the Doll’s House: Women in the Public Sphere} (Longman Cheshire Pty Limited, 1991).
\item \textsuperscript{75} Brennan, above n 5.
\item \textsuperscript{76} Brennan, above n 5, 204.
\end{itemize}
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childcare (save for the minority of employers who have recently initiated work-based childcare centres as an incentive and efficiency initiative aimed at female employees).\textsuperscript{77} Childcare has predominantly been regarded as a feminist concern,\textsuperscript{78} relevant only to those women who deviate from the traditional breadwinner family form. This view has been entrenched by taxation and family assistance legislation, which privilege low and middle-income two-parent, single income households\textsuperscript{79} by rendering them eligible for the payment of family taxation benefits, irrespective of the quantum of that income, whilst disadvantaging two-parent, dual-earner households.\textsuperscript{80} While Family Tax Benefit Part A is paid to families on the basis of the family’s adjusted taxable income for the financial year and thus does not distinguish between breadwinner and dual-income families, eligibility for the payment of Family Tax Benefit Part B ceases once the secondary income rises beyond a nominal sum.\textsuperscript{81}

The ‘hands off’ approach taken by successive governments\textsuperscript{82} has persisted, for fiscal and ideological reasons.\textsuperscript{83} Childcare remains predominantly a private concern, despite its significant public ramifications. This is aggravated by the significant funding cuts to the community childcare sector (in favour of the private sector) in the past decade and results, as Pocock notes,

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  \item\textsuperscript{77} Encel and Campbell, above n 74, 133,134.
  \item\textsuperscript{78} S Dowse, ‘The women’s movement fandango with the state’ in Cora Baldock and Bettina Cass (eds), Women, Social Welfare and the State in Australia (Studies in Society) (Allen and Unwin, 1983), 204.
  \item\textsuperscript{79}Only those families with an adjusted family income of $150,000 or less are eligible for the payment of Family Tax Benefits Part A and Part B: Australian Government, Department of Human Services, http://www.humanservices.gov.au/customer/subjects/payments-for-families, accessed 14 September 2013.
  \item\textsuperscript{80} Rosemary Owens, ‘Reproducing Law’s Worker: Regulatory Tensions in the Pursuit of ‘Population, Participation and Productivity’ in Christopher Arup, et al (eds), Labour Law and Labour Market Regulation (The Federation Press, 2006), 410, 419, 429; Berns, above n 38, 201-2; Summers, above n 66, 7, 8.
  \item\textsuperscript{81} Family Tax Benefit Part A is paid to families on the basis of the family’s adjusted taxable income for the financial year and thus does not distinguish between breadwinner and dual-income families. While an income cap also applies to the payment of Family Tax Benefit Part B, this is based on the income of the primary earner (eligibility for Part B ceases where the primary earner has an adjusted taxable income of $150,000 or more in the financial year), rather than the total family income. The secondary earner in a two-parent family can only earn up to $5,183 in the financial year before the rate of Family Tax Benefit Part B is reduced (payments are then reduced by 20 cents for each dollar of income earned over $5,183). Eligibility for Family Tax Benefit Part B ceases where the secondary income reaches $26,390 (where the youngest child is under five years of age) or $20,532 (where the youngest child is between five and 18 years of age): Australian Government, Department of Human Services, http://www.humanservices.gov.au/customer/subjects/payments-for-families, accessed 14 September 2013.
  \item\textsuperscript{82} This stemmed from the new right conservatism heralded by Margaret Thatcher: Encel and Campbell, above n 74, 139.
  \item\textsuperscript{83} Encel and Campbell, above n 74, 139, 143.
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in rendering children an economic ‘commodity’ and childcare a market to be ‘milked’.

Consistent campaigns for publicly funded, high quality childcare, on par with European standards, have not prevailed.

That childcare is categorised under the umbrella of equal opportunity and family policy, rather than industrial relations policy, and has historically not been recognized as an industrial issue has not helped. In comparison to many European countries, the Australian state and federal governments have taken a minimalist approach, relegating childcare as a ‘largely privatized and “familised” concern’, a form of occupational welfare subject to some government subsidization.

These are predominantly structural problems. The ramifications of the failure by the government to invest in the establishment of a universal, quality public childcare system is significant in light of the literature, documented above, establishing the significant and lasting effects of substandard childcare. Australia is well behind many of its neighbours in the global community in this regard.

**Conclusion**

This chapter has outlined the findings on the research participants’ unwillingness to outsource childcare. This unwillingness is consistent with the key features of, and reasons for, providing parent-only care articulated by the participants and presented in the preceding chapter. Here, some of the detailed reasons expressed by the research participants for preferring parental care to outsourced care during the first three years of their child’s life are documented. The

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84 Dux and Simic, above n 24, 105-6.
85 Berns, above n 38, 164.
87 Jocelynne Scutt, *Women and the Law* (The Law Book Company Limited, 1990), 129. In the *National Wage Case* in 1983, the (now superseded) AIRC dismissed submissions on childcare on the basis that childcare was irrelevant to paid work. Brennan, above note 5, 141, also notes the traditional ‘disregard’ and ‘hostility’ of trade unions to the interest of women.
88 Barbara Pocock, ‘Australian Mothers in 2004: Awaiting a Decent Work/Care Regime’ in Patricia Grimshaw, John Murphy and Belinda Probert (eds) *Double Shift: Working Mothers and Social Change in Australia* (Circa, 2005), 8-9; Encel and Campbell, above n 74, 144.
89 Pocock, above n 1, 219.
perceptions of formal childcare, and the experiences of some participants, are contextualized within insights from the literature. The ways in which different types of care, notably informal care provided by members of the extended family, are more compatible with a parent-only care philosophy are explained.

Throughout the extensive discussions about the different forms of care potentially available for young children, participants were united in their preference for parent-only care over any other form of formal or familial care. Childcare, irrespective of quality, was rated as a distant second to parental care during the first three years of their child’s life. This is not to suggest that participants romanticized parent-only care; as the subsequent discussion will show, many participants spoke at length of the difficulties of parent-only care, particularly in the context of labour market participation. Yet it was considered that the duration of early childhood parenting is very brief and the benefits for children great, as one participant philosophically concluded:

Three years isn’t a long time to invest in someone... and that three years is really important, that will make a difference to how they view the rest of their life. And how they are able to handle the things in their life for the rest of their life depends to a big extent on how those first three years are managed. (P12)

The focus of this thesis is on the interface between parent-only care and participation in the labour market in Australia. A core concern underpinning this research is that the choices of parent-only carers vis-à-vis workforce participation are restricted as a consequence of the structural dominance of the separate spheres model in Australia. As previously outlined, there are significant implications, both at a macro and micro level, which are associated with this denial of choice to a significant subset of parents. An integral part of the present structure at the work-parenting interface is childcare. Understanding the dominance of childcare, and its perceived role as a ‘solution’ for parents at the work-family juncture, is important in understanding the marginalisation of parent-only carers from and within the labour market. Their unwillingness to outsource the care of their young children means that formal childcare is not a solution for them.

See Chapter 1 for a discussion of the important implications in this regard.
Having explored the phenomenon of parent-only care over this and the previous chapter, the next chapter will consider the other side of the phenomenon – work. It will outline participant insights into the importance of work for parent-only carers and reasons why parent-only carers work, which includes financial and non-fiscal factors. The next chapter will also consider the difficulties reported by the research participants, and documented in the literature, associated with the inability to attain and maintain appropriate employment, including difficulties adjusting to being outside the workforce, career sacrifice, fears of severing work ties and guilt.
Chapter 5: The phenomenon of work for parent-only carers

Introduction

The previous two chapters have engaged in an in-depth exploration of the phenomenon of parent-only care. Through the presentation of the empirical findings and the exploration of the relevant literature, the core features associated with parent-only care, and the reasons driving parents to choose to provide parent-only care, have emerged. The focus of this chapter is presenting the empirical findings on the other ‘sphere’ of the separate spheres model – work.

The chapter will commence with the findings on the reasons why parent-only carers work. As the focus of this research is on the interface between parent-only care and work, understanding why parent-only carers want and need to work is important. While the financial imperative to work is a key factor, the drive to work is a compelling one that extends beyond economic gain. Like many people, many parent-only carers are strongly motivated by the desire to engage in interesting, meaningful work with career prospects. In this light, it is unsurprising that those marginalised from the workforce face acute difficulties, both in the period of adjustment to being outside the labour market and in the long-term.

This chapter will then consider some of the consequences for parent-only carers of being outside the labour market. The empirical findings strongly establish that parent-only carers who are unable to attain and maintain employment as a consequence of their parenting role experience significant difficulties. These difficulties include personal issues such as defining an identity separate to their former working role, along with emotions of career sacrifice, fears associated with severing labour market attachment and guilt.
Research findings

‘Passionate about my work’ – why parent-only carers work

People, including parent-only carers, work for a variety of reasons. Core reasons articulated by the research participants include economic benefits, enjoyment and stimulation, self-esteem, keeping skills and knowledge up-to-date and maintaining a connection with the workforce. This chapter will now present this data, before discussing it in the context of the relevant literature.

The financial motivator

The economic advantages of working are obvious, and featured significantly in participants’ stated rationales for working. The following participant comments illustrate this:

We need the money. (P8)

With work, obviously, the financial advantages are high. (P12)

It’s a financial motivator. (P4)

In the focus group, the participants agreed that making a financial contribution to the family, helping the family to ‘make ends meet’, and being financially independent were very significant considerations for them.

For the majority of participants, the perceived economic value of work was to the total family income. However, a significant minority of participants noted the importance of the feeling of independently contributing to the household, as one participant reflected:

Having been completely financially independent, and to just not have any income that I’d earned myself, even though my husband just pays his wage into my account and I do whatever with it. Just the sense that I hadn’t earned any income myself. So I guess that’s what working provides as well, some financial independence, earning my own income. (P16)
Some research participants spoke of the adverse financial effects of compromised workforce participation associated with parent-only care. A more extreme example of this is illustrated by the following excerpt from one participant’s story:

It was quite hard [financially]. But we did get through, we lived in government housing... Now we’re in a better position thankfully. We live quite comfortably... My son’s medical bills, I just finished paying off $10,000 worth. And he’s been out of hospital a year. So [being able to work] would have helped, it would have helped a lot. Constantly my bills were overdue or down. My son still doesn’t have many clothes. (P11)

Most of the participants who spoke of the financial effects of being outside the workforce posited it in terms of the inability to afford ‘luxury’ items. One participant explained that, knowing they would be going down to one wage they had planned accordingly and accepted their new, more materially minimalist existence (P9). Another participant reflected that their decision to ‘live quite basically’ was often met with surprise in a culture that valued material possessions over family time. She explained:

It’s obviously tight living on one income... But that’s the sacrifice that we chose to make as a family... we really do live quite basically. A lot of our friends say: ‘how can you live on just one salary?’ Well, you can... (P2)

Another participant similarly stated:

The number of people that have said at different times: ‘when are you going to upgrade [house]?’ And we’ve said we want to be able to pay our bills on one income. And that really surprises people. I think part of it is that push from society to have more. And then you’re clamouring to keep up, to earn more to buy more to do more. And then some of these other things like kids and how they fit into it and parenting and what you do about that and work become an afterthought, which is really strange. (P14)

Most of the participants were philosophical about the financial ‘sacrifices’ involved in parent-only care. This was spoken of by the majority of the participants at length, with very similar perspectives expressed. As one participant explained, the ability to provide parental care trumped financial comfort:

We don’t own the house we’re living in now, we’re renting it. And we can’t afford to buy a house around here if we are on one income. But that’s just a small sacrifice that we’re making because we want [child] to grow up being looked after and cared for by us. (P19)
The non-fiscal benefits of work

Along with financial benefits, the enjoyment and stimulation work can offer resonated strongly from the participants’ stories. One participant, in a statement that encapsulates the sentiment of many, stated: ‘I got a lot of enjoyment out of work. I was passionate about my work, you know?’ (P10). Another participant explained:

I love [my work], that’s why I sometimes kill myself just to do it at night-time when I really need sleep. I really do like to use a different part of my brain other than the one that sings nursery rhymes to the kids. (P2)

A core part of this satisfaction was derived from the pleasure of other adult company, the ‘social contact’ (P10). As one participant reflected:

Certainly, I enjoyed my job, I always thought I’d be going back, because I worked with families and had a client base, it wasn’t just sitting at an office and not having a face to anything. I really enjoyed the interaction with the people... And I do miss that. (P1)

Another participant similarly noted: ‘I actually quite missed my work network when I quit due to having my son. I missed it quite a bit, because it was adult company’ (P11). A further participant stated: ‘To talk to someone, even if I’m talking to a developer, it’s still on an adult level, rather than just a two year old level’. (P8).

Yet for some participants, the social aspect of work was not paramount; they sought work from home to accommodate parent-only care. One participant explained that she valued the ability to provide parent-only care well above the social aspects offered by being physically within workplace for all of her working hours, stating: ‘some people like that and that’s an important part of going to work, that social aspect, some people feel isolated at home. But for me that’s not the issue’ (P3). For another, it was a consideration, but one which was outweighed by the preference to provide parent-only care. She explained:

Someone says: ‘but isn’t it nice to go into work and you don’t have cornflakes in your hair and you wear nice clothes and you sit down and read a book on the bus and you sit down and have a cup of coffee while it’s hot’... And I think yes it is nice, too, but [the
benefits of parent-only care outweigh this]. So working from home would be a great option. (P9)

Participants deprived of the ability to engage in meaningful work reported acutely missing the interaction and stimulation. One participant explained: ‘I just feel I’m not getting enough stimulation. I get quite bored sometimes. I love my son very much, but I do find it quite boring. And I would enjoy that social aspect [of work] too’ (P17). Another participant similarly stated: ‘to communicate with adults more... it gets your brain back’ (P8). A similar insight was offered by another participant: ‘I want to keep my brain active’ (P3).

The sense of accomplishment that work can offer was highly valued by research participants. Participants spoke of the sense of ‘pride’ (P17) attained from working. As one participant noted: ‘even just working a little bit gives me a huge bolster to my self-esteem, both in terms of how I view it and in terms of how other people view it’ (P14). This is also apparent from the following excerpt from one participant’s story:

Something that really enhanced my mental health was going back to work and using my brain and feeling valued and like I was contributing and having an adult conversation and that sort of thing. Work has been a really important part of my life. It has been fundamental to my definition of myself... in my professional life, I’m very competent and capable and I think good at what I do... I feel very valued in my working role. (P15)

A shift-parenting participant reflected:

I think what is difficult [with full-time mothering] is that you never finish anything... Whereas at work you can do something and it’s done and you get a sense of accomplishment. And people are grateful, sometimes. And you get a lot of other rewards and a much better sense of achievement... feeling effective, feeling that I’m accomplishing things, feeling in control of my day. (P20)

‘It was incredibly difficult’ – the experience of adjusting to not working

Many parent-only carers, like many workers, are ambitious in terms of their careers. The difficulties associated with adjusting to a new role as solely a parent, and no longer as a worker, was a poignant theme to emerge from the empirical data. For those parents unable to reconcile their careers with their parenting who elected to sacrifice their
work, this was a significant challenge. The decision to provide parent-only care was often made despite an acute awareness that they would damage a successful career in which they had invested considerable time and energy and which was an important part of how they defined themselves. Many participants spoke of their struggles to define themselves after the loss of their job. This was acutely experienced by participants who reported a high level of ambition or career-focus prior to having children. One participant explained:

That was a huge decision for one of us to have to give up work... It has probably taken me three years to come to terms with even being defined as a parent... It was incredibly difficult. Even for two to three years afterwards, people would ask me what I would do and I would say: ‘I’m a scientist’, but I wasn’t really, I’d given that up. (P2)

She reflected: ‘It was really quite a difficult time, and I actually did end up at a psychologist because of it, it was very, very difficult’ (P2). Another participant expressed a similar sentiment: ‘spending years as I did studying and then working and having my ideal job at around the age of 30 with all sorts of opportunity, it seemed like quite a big shift going to being a mother’ (P14). A further participant explained: ‘I found everything quite overwhelming [after leaving the workforce]’ (P19). Another participant explained that the difficulty adjusting to no longer working was particularly acute for career women who had children later in life, explaining: ‘at the beginning, it’s: “oh my God I’m not working”, because that had been your life’ (P1).

Along with the financial difficulties associated with being outside the workforce, participants spoke of their career sacrifice, fears associated with severing labour market attachment and guilt. The thesis will now discuss these findings.

**The career sacrifice of parent-only care**

Many participants spoke of the stagnancy or decline of their career following the birth of their children. One participant explained that, to manage dual work and parenting loads, you had to be ‘prepared to go backwards in a way’ (P4) when it came to your career. This perception also resonated from the focus group dialogue, where the
majority of participants considered that career progress is compromised by parent-only care. A further participant explained how parent-only caring impacted significantly on her ability to progress in her career, due to her unwillingness to work full-time from the office:

It was a little bit frustrating for a few years when you’d go: ‘gee I’d like to be this, I could do this’. But what got worse and worse as I got more and more experienced, was seeing other people who weren’t so good at their jobs and weren’t so competent go above you and become your bosses. And that was devastating... It really started to remind you constantly that you could be going further but you had to remind yourself constantly that the balance of your family life was more important and I saw people come to terms with that and other people who didn’t, who would get so frustrated and so upset. (P10)

She emphasized: ‘it really was a real glass ceiling. And it wasn’t just about women, it was about mothers’ (P10). A similar sentiment was expressed by focus group participants, many of whom reported that significant career sacrifice resulted from their parent-only caring:

I think the word accommodate is very telling, there’s a difference between accommodate and accept... Sure they’ll accommodate all those requests, but will I get the same promotion as the [other employees]? [Parent-only care has] definitely had an impact. I’ve had to drop back my hours. I’ve faced a lot of challenges and difficulties. (FGP1)

‘I was worried about being professionally forgotten’... Fears of severing work ties

Many participants spoke of their significant fears associated with severing labour market attachment for the period of their child’s early childhood. Of significant concern to the research participants who were unable to integrate their working roles with parent-only care was the prospect of severing links with their workplace or industry. This was predominantly due to the fear of obtaining the same or equivalent job when their children were older. Such fear was expressed in terms of the specific concern to maintain their skill-set and keep up-to-date with the work in their field. One participant explained that she feared being professionally forgotten:

I was concerned about being out of the loop... I was worried about being professionally forgotten... [I wanted to] keep [my work] active in a way that it would be there if I
needed it. I see skills as being quite valuable so should you ever find yourself in a position where you need to work... I worried about losing those skills and losing what I’d built up. (P16)

Participants spoke about their fears of the effect of not maintaining a link to their workplace on their future employability:

I think I was also scared of what that meant, not having a job. I felt like if you totally give it up, how long are you out for and how difficult it is to get back. I probably wouldn’t be able to start where I am now, and I think that’s the hard thing, the job I have now is a very good job in a lot of ways. It’s hard to give it up. Because if I do resign now, I’d have to start somewhere else from scratch when I did decide to go back... I’m terrified that I’ll do it and then regret that I’ve done it. (P17)

A further participant similarly noted: ‘It’s taken a long time to get where I am. I’m not going to walk in and get a job like I’ve got now, you know what I mean?’ (P8).

Some participants stated that they were in a position where they considered that such fears were eventuating. One participant explained:

I did renew my maternity leave [for a second 12-month period] it’s done on a case-by-case basis. But I have noticed that they don’t really make much contact with me anymore. When I did go on maternity leave, they have options, like how often did you want to be contacted. I selected bi-monthly. But I don’t get any contact from them... if I contacted them... I don’t know, I think that there’s probably not many jobs there now. (P19)

Participants spoke with some trepidation of their concerns about the damage a gap in their work history would create for their future employment prospects. One participant explained that it was very important to her to continue to work whilst parenting to avoid having a ‘black hole’ on her employment record: ‘I’m [working] more to show continuity on my CV, for showing continued involvement in my profession, [rather than] having this five plus years total break...’ (P14). Another participant explained that the requirement to resign from a job to provide parent-only care creates fear and insecurity about future employment prospects, stating: ‘that’s the frustrating part, you do have to resign... they can’t hold the position indefinitely’ (P3).

Some participants had worked hard to overcome these concerns. One participant spoke
of her journey in this regard as follows:

It took me a long time to realize that that was one part of my life and this is potentially an interim period... And not to worry about the future so much because something else will come along when the kids go to school and I have more free time. (P1)

For most participants, however, their perception of the very limited nature of the work choices available to parent-only carers instilled fear and insecurity about the future.

Many participants also expressed their fears about the tenuous nature of their present arrangements that enabled integration of part-only care and work:

I’m sort of a bit terrified about losing the arrangement. (P4)

I just hope it keeps going. (P22)

Another participant similarly noted the insecurity attached to her arrangements:

I was very insecure when I decided to do it [flexible, part-time arrangement]... I didn’t feel like I had any support at all... [The managers] had a different perception of woman at work and what I felt, and I think [direct manager] felt too, it was coming from the top down, was that maybe it wouldn’t be appreciated being family-friendly. They did say they didn’t have to do it for anyone, and it was up to the business managers to decide whether the unit could. (P8)

A further casually employed participant spoke of how it had taken her a significant amount of time and experience to feel confident not accepting offers of work that was difficult, due to her parenting responsibilities, to perform. She explained: ‘it took me a good while to start to say no, because I was worried immensely about never having the offer of work again. So I accepted everything in the beginning’ (P2).

‘There’s always the guilt’ – a consequence of the separate spheres ideology

An issue that resonated strongly from the research was that of guilt, both about their child’s wellbeing as a result of working arrangements not compatible with parent-only care, or at their inability to maintain workforce participation. As one participant succinctly expressed: ‘there’s always the guilt, whatever you’re doing’ (P4). Another
participant similarly stated: ‘you know that mother guilt that we talk about? The only thing is you feel guilty no matter what’ (P10). One participant explained that many of the mothers at her workplace who worked in roles that did not accommodate parent-only care ‘had to compromise on either their childcare or their work, and they all expressed guilt at one thing or another, it made me feel quite sad’. She concluded: ‘you can’t have kids without having to feel compromised about it. You either feel compromised about your children’s experience or you feel compromised about [work]’ (P12). Another participant expressed a similar sentiment, explaining: ‘I think if you stay at home you worry you’re not earning an income, if you go to work you worry you’re too far away from your child’ (P16).

For some participants, the prospective guilt at leaving their child informed their decision-making about work, as one participant explained: ‘I don’t think I could just leave [child], I just probably, I couldn’t leave him all day, I couldn’t concentrate, the guilt would just be too much’ (P19). For others, the guilt pertained to their work contribution, as one participant explained: ‘when I first started doing [work] from home, I’d just do more hours because I felt guilt. That’s wrong but I would do more hours’ (P8).

Discussion

Research findings which resonate with the empirical literature on work

The research findings outlined above document many reasons why work is important to parent-only carers. Core reasons articulated by the research participants include the financial benefits, both for their family and in terms of their own financial independence, enjoyment and stimulation, self-esteem, keeping skills and knowledge up-to-date and maintaining a connection with the workforce. It is not the role of this thesis to justify why people work, or why they are currently working longer and harder. What is important to note is that there are many reasons why people need to work, with income only part of the story. Once it is accepted that the majority of adults in Australian society do work, or feel a desire or need to work if they are not currently in

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the workforce, a more relevant debate can be engaged in regarding how to facilitate the integration of work with parenting responsibilities. The focus of this thesis is with the findings on why parent-only carers want and need to work; the empirical data provides insight into the importance of work for parent-only carers and the difficulties that arise in the absence of the freedom to work.

There is a significant body of research, including some recent Australian qualitative research, which has explored the importance of work in people’s lives, with a much more limited body of work focusing on the importance of work for those with parental responsibilities. A seminal qualitative Australian study considered the impact of (now superseded) amendments to the industrial relations legislation on low paid women workers. The findings from that study include consideration of the serious, adverse effects associated with the loss of work, with participants in that study expressing this in terms of ‘loss of independence’, ‘financial hardship’ and ‘financial crisis’. Only one qualitative research study, within the international context, has directly considered the importance of work for parents; the research focusing on the importance of work for parent-only carers is even more limited.

Aspects of the empirical research which resonate with extant research that has explored other, relevant phenomena

There is a body of literature that documents the importance of work for women, in the context of the tension between parenting and work responsibilities and priorities, which

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3 Ibid 86.
resonates with the empirical findings. Cannold states: ‘women don’t just want to work: they simply do work, and can’t imagine their lives any other way’. Cannold emphasizes that women work ‘in much the same way as men do’. Bryson and Warner-Smith argue that international trends establish that paid work has become not only normalized but a ‘priority’ for women. Women’s desire and expectation of engaging in paid work throughout their lives is one of the defining characteristics of this epoch. This is not to glorify work. Yet as Cannold notes:

[S]urely high-powered men have days when they’d like to pack it all in, don’t they? And men in menial jobs buy heaps of lottery tickets too. The point is that few differences exist anymore (if they ever did) in the ways that men and women value paid employment and that on good days, both men and women appreciate the economic security (and therefore independence) and emotional satisfaction paid work can provide. Both men and women... gain a sense of mastery from meaningful involvement in the work of society.

The economic reasons for seeking and maintaining employment are also well documented in the literature, with motives for working including assisting the family’s economic positioning and economic independence and security.

The impacts of economic hardship, both in terms of family functioning and child development, are well documented. Cass and Radi argue that, in an environment...

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1 Cannold, above n 1, 241.
2 Ibid.
4 When 39,000 Australian women aged between 18 and 22 were asked what they would like to be doing at the age of 35, 91% said they wanted to be employed either full-time or part-time. Only 5% of women said they wanted to be full-time homemakers: Cannold, above n 1, 241. This is supported by the evidence of labour market participation – the majority of women of child-bearing age work: Bettina Cass and Heather Radi in Grieve, Norma and Patricia Grimshaw (eds), Australian Women: Feminist Perspectives (Oxford University Press, 1981), 201.
5 Cannold, above n 1, 244-5.
6 Gambles, Lewis and Rapoport, above n 1, 37. As Standing notes, the decline of the extended family and increased commodification create a strong economic impulse for work for longer periods of our lives: Guy Standing, Beyond Paternalism: Basic Security as Equality (Verson, 2002), 48.
8 Cannold, above n 1, 244-5; Wolcott and Australian Institute of Family Studies, above n 11, 9.
where the two income family is the norm, the loss of one income brings ‘severe
economic disadvantage’ not offset by measures such as tax rebates or family
allowances.\textsuperscript{14} Cannold states:\textsuperscript{15}

In today’s post-industrial economy both partners need to work, or at least remain
securely attached to the workforce, both to achieve a reasonable standard of living and
to hedge against periods of unemployment and under-employment.

The effects of childrearing and childbearing on women’s wages in developed countries
are well established.\textsuperscript{16} The significant loss of lifetime earnings for each child has been
quantified.\textsuperscript{17} Children create increased financial needs for a household,\textsuperscript{18} while reducing
the earning capacity of household members by compromising workforce participation.\textsuperscript{19}
This is compounded by industrial law, taxation law,\textsuperscript{20} welfare law and workplace policies

\footnotesize{impact of the WorkChoices legislation on low paid Australian women workers, Elton et al note the
aggravated difficulties the WorkChoices legislation has created for such women and the way in which the
increased financial strain resulting from lower wages and increased job insecurity have important spillover
14 Bettina Cass and Heather Radi in Grieve and Grimshaw, above n 8, 201.
15 Cannold, above n 1, 199.
16 Susan Harkness and Jane Waldfogel, \textit{The Family Gap in Pay: Evidence from seven industrialized countries}
(Centre for Analysis of Social Exclusion, London School of Economics, 1999), 15.
17 After tax, it is calculated at approximately $160,000 for the first child and $12,000-$15,000 for each
subsequent child: Anne Summers, \textit{The End of Equality: Work, Babies and Women’s Choices in 21\textsuperscript{st}
18 A NATSEM report documents the cost of raising two children from birth to 21 years of age as $537,000:
NATSEM, ‘Honey, I calculated the kids . . . it’s $537,000: Australian child costs in 2007’ (2007) 18
\textit{AMP.NATSEM Income and Wealth Report Issue}.
19 Duncan Ironmonger (ed), \textit{Households Work: Productive Activities, Women and Income in the Household
20 As Owens documents, Australian taxation policies have paradoxical effects, consequent upon a
mother’s marital status: Rosemary Owens, ‘Reproducing Law’s Worker: Regulatory Tensions in the Pursuit
Market Regulation} (The Federation Press, 2006), 410, 419. While mothers of young children from sole
parent families are required to work to remain above the poverty line, mothers of young children from
two-parent families suffer financial penalties for earning income: Summers, above n 17. Adams and Geller
have called for far greater consistency among contradictory tax policies that clash at the juncture
between productive and reproductive labour: K Lee Adams and Chris Geller, ‘Regulating at the Work-Life
Boundary: Towards Re-Integrating the Household into Labour Market Policy’ in Christopher Arup, Peter
432, 434. While some government policies encourage a breadwinner model of family, such as the baby
bonus and the Family Benefit Tax Part B, other policies privilege participation by mothers and other carers
in the labour force, such as the provision of superannuation for part-time workers, welfare reforms
requiring work by single mothers and the child-care rebate.
and practices, which enforce gender wage disparity and situate women, in particular mothers of young children, in precarious employment. In Australia, the plight of women workers, particularly lower paid women workers, worsened in the wake of the WorkChoices reforms and the gender pay equity gap widened. The literature documents that women who care for children are usually poorer than women who do not, both domestically and internationally. In Australia, many women are unable to provide for their retirement as a consequence of proportionately low superannuation

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21 Yuko Aoyama and Manuel Castells, ‘An Empirical Assessment of the Informational Society: Employment and Occupational Structures of G-7 countries, 1920-2000’ (2002) 141 International Labour Review 123; Judy Fudge and Rosemary Owens, ‘Precarious work, women, and the new economy: The challenge to legal norms’, in Judy Fudge and Rosemary Owens (eds), Precarious work, women, and the new economy: The challenge to legal norms (Hart Publishing, 2006), 8-9; Sylvia Ann Hewlett, A Lesser Life (Morrow, 1985), 279-280. Women’s total average earnings are just 66% of men’s – less than they were ten years ago: Summers, above n 17. In the World Economic Forum Global Gender Gap Index 2010, Australia was ranked 24th out of the 134 countries surveyed in terms of the economic participation and opportunities for women, 44th in female labour force participation and 59th in wage equality: See the World Economic Forum Global Gender Gap Index 2010, available at: http://www.weforum.org/reports/global-gender-gap-report-2010?fo=1. Contributing factors in wage disparity between men and women include that women are less likely to occupy higher-paid jobs, that women are disadvantaged by workforce segregation, undervaluing of women’s skills and the decreased likelihood of women receiving industry loadings or allowances: Barbara Pocock, ‘Australian Mothers in 2004: Awaiting a Decent Work/Care Regime’ in Grimshaw, Murphy and Probert, above n 1, 19; Berns, above n 21, 137; Edna Ryan and Anne Conlon, Gentle Invaders: Australian Women at Work (Penguin Books, 1989), xxiv. Mothers are over-represented in a discrete number of industries, in a narrow segment of the market, usually in occupations that reflect female domestic roles such as nurturing, childcare and personal service to others: Belinda Probert, ‘Women’s Working Lives’, in Kate Pritchard Hughes (ed) Contemporary Australian Feminism (Longman Cheshire, 1994), 153, 164-5. Jobs worked by women are less likely to be ‘career-track’ positions and traditionally exclude positions with higher pay, status, responsibilities, job security, stimulating work and opportunities for advancement: Pocock, above n 1, 19; Berns, above n 21, 137. Fudge and Owens, speaking of the ‘dualism’ brought about by the segregation of labour markets into high and low skilled jobs, with the middle tier diminishing, assert: ‘the benefits of globalization and the new economy have not been distributed equally’: Fudge and Owens, above n 21, 8-9.


23 Elton, Bailey and Baird, et al., above n 2, 98.

24 Harkness and Waldfogel, above n 16, 15; Katherine Rake (ed), Women’s Incomes over the Lifetime – Explaining the Female Forfeit (Women’s Unit, Great Britain Cabinet Office, 2000); Gabrielle Palmer, The Politics of Breastfeeding (Pandora, 1988), 288; Karen Mitchell, Careers and Motherhood Challenges and Choices: How to successfully manage your career through pregnancy, birth and motherhood (McGraw-Hill Australia, 2004), 289; Ironmonger, above n 19, 161-162; Sheila Kitzinger, Ourselves as mothers: The universal experience of motherhood (Addison-Wesley, 1995), 228. This is attributable to the loss of income caused by changes to a woman’s employment after the birth of a child, her diminished career prospects upon return to the workforce and the costs associated with the birth and rearing of children.
Many women are financially dependent on men for support. This creates vulnerability, which is realised in the case of divorce or widowhood. It is particularly acute for women of lower socio-economic status, who generally have more restricted employment and childcare options. This was aggravated by the WorkChoices reforms, which have a lingering effect despite their repeal, particularly for low paid women workers. Parent-only carers are well aware of their plight and many carry feelings of vulnerability and dependence, and fear being unable to maintain or later reclaim their financial independence.

Discussing the results of a large-scale Australian research study conducted in 2005, Dux and Simic state:

The conclusion is clear – a large number of working mothers would prefer to spend more time at home, raising their young children. What stops them is not their single-minded commitment to career or a feminist-inspired lack of interest in parenting. It is simple financial pressure, pressure which almost all developed countries have legislated to alleviate.

The empirical finding that engaging in the workforce affected the family’s financial situation in terms of the ability to afford ‘luxury’, rather than ‘necessary’, living expenses resonate with Pocock’s research on the ‘work/spend cycle’. She asserts that the forces of commodification and consumption drive a consumeristic society structured around a cyclical work more, spend more ethos. Pocock argues that the ‘increasing attachment to “living” through work and spending’ has important implications for health and well-

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25 A 2006 Australian Household, Income and Labour Dynamics in Australia (HILDA) research study established the disproportionate financial hardship facing single women in retirement, partly brought about by carer-induced career interruptions: Discussed in Monica Dux and Zora Simic, *The Great Feminist Denial* (Melbourne University Press, 2008), 182. See also Berns, above n 21, 183-184. It is attributable to a number of factors, including the earnings gender gap, the type of work that attracts remuneration, the effect of government policy and the fact that most women never attain membership of occupational superannuation schemes or receive very little return from them: Australian Council of Trade Unions (ACTU), *Women in the Australian Workforce: Past, Present & Future* (ACTU, 1990), 231; Berns, above n 21, 183-184.

26 Summers, above n 17, 158-160; Hochschild, above n 11, 141; Palmer, above n 24, 281.

27 Elton, Bailey and Baird, et al., above n 2.

28 Rubin and Wooten, above n 3, 343.

29 Dux and Simic, above n 25, 104.

30 Pocock, above n 22, 7, 190-209.
being; the ‘work/spend treadmill’ may benefit economic growth, but ‘may correlate poorly with the happiness of future generations’.  

Many participants articulated concerns about the adverse impact on their career a period of absence from, or scaled-down participation in, the workforce could have. Such concerns are recorded elsewhere in the qualitative literature, where research participants have expressed concerns about losing their marketability and failing to ‘live up to their potential’.  

The issue of guilt emerged from the data as one of significance for many research participants. There is recent Australian qualitative research that is consistent with the findings of this research study, although such research pertains more broadly to Australian mothers, rather than considering the subset of Australian parents providing parent-only care. Dux and Simic argue that guilt is widespread amongst mothers and is particularly pronounced at the interface of mothering and work. The powerful emotions of guilt and ambivalence experienced by mothers of young children who outsource their care are documented. Research has recorded the ‘strong feelings of guilt accompanied by [mothers’] decisions, especially where child care was concerned’ and concluded that ‘the work/family balance was generally fraught’.  

There is a body of American empirical sociological research that has explored the issue of the isolation experienced by parents, and the way in which this can be exacerbated by occupational mobility. One consequence of occupational mobility is the geographical separation of nuclear families from their extended family network. Early family theory research noted the benefits of the nuclear family structure for the American economy in

31 Pocock, above n 22, 190.
32 Rubin and Wooten, above n 3.
33 Dux and Simic, above n 25, 97.
34 Rubin and Wooten, above n 3; Kate Connelly, ‘Women Lawyers and Family Decisions’, in Grimshaw, Murphy and Probert, above n 1, 37, 45-48; Dux and Simic, above n 25.
35 Discussed by Kate Connelly, ‘Women Lawyers and Family Decisions’, in Grimshaw, Murphy and Probert, above n 1, 37, 45-48.
terms of the mobility of its workforce. However, the isolation implicit in this structure has long been recognised – pioneering work in this regard was conducted by Parsons, which led to a school of sociological thought that occupational mobility is detrimental to extended family networks and is part of a broader patterns of social isolation.

Situating the empirical findings in the theoretical and reflective literature

The desire to engage in meaningful work is reported as a driving force in the theoretical and reflective literature. The positive benefits of work include the deriving of multiple sources of identity and meaning. It is not a given that working women experience higher levels of stress than nonworking women. De Botton notes:

Our choice of occupation is held to define our identity to the extent that the most insistent question we ask of new acquaintances is not where they come from or who their parents were but what they do, the assumption being that the route to a meaningful existence must invariably pass through the gate of remunerative employment.

The literature has established a strong positive correlation between employment and mental health for women, with the decreased psychological well-being, in the context

42 De Botton, above n 39, 109.
43 Bryson and Warner-Smith note that paid work has not only become ‘normalised’ but has become a ‘priority’ for women: Bryson and Warner-Smith, above n 7. Following review of over 20 years of women’s health data from the United States Institute for Social Research and the National Centre for Health Statistics, researchers concluded employment is most significantly correlated to female good health, when compared with marital and parenting status: Susan Faludi, Backlash: The undeclared war against American women (Crown, 1991), 36. Reiger documents the lowered self-esteem that often results for
of educated stay-at-home mothers, noted. In the literature, the importance of paid work as a source of satisfaction, identity and pride, and as an important and socially valued way of contributing to society and personal growth, is documented. As Pocock notes: ‘[w]ork feeds us – physically, socially and emotionally – and being without work is a disaster for many who cannot find it’.

The difficulties experienced by parents who leave the workforce to raise their young children are documented in the literature, with the difficulties exacerbated for highly-educated parents. As noted in Chapter 1, there is a recognised ‘brain drain’ associated with the loss of women of childbearing age from the workforce, in particular in relation to disciplines such as science, law and medicine.

In the literature, the career compromise associated with mothering is well documented, and this literature is predominantly focused on mothers who outsource the care of their children. The difficulties for parent-only carers are exacerbated by the time commitment of parent-only care. Williams defines the ‘glass ceiling’ (which she

women by time out of the labour market: Kerreen Reiger, “Mothers in a Double-Bind: The Work of Being “With Women””, in Grimshaw, Murphy and Probert, above n 1, 52, 60. Cannold draws on these findings to conclude: ‘the role of paid work in [women’s] identity and imagined future is much the same for most women in their twenties, thirties and forties as it is for men. In the same way that nearly all young men in Australia and the United States imagine paid work as part of their future and suffer financially and emotionally when unemployed, few young women these days cast their minds forward to a future in which they feature solely as wives and mothers’: Cannold, above n 1, 241-2.

45 Wolcott and Australian Institute of Family Studies, above n 11, 9; Faludi, above n 43; Cannold, above n 1, 241; Gambles, Lewis and Rapoport, above n 1, 37. In 1995, 63% of employees in workplaces with 20 or more employees were generally satisfied with their jobs: A Morehead, M Steele, M Alexander, K Stephen and L Duffin, Changes at Work: the 1995 Australian Workplace Industrial Relations Survey (Addison-Wesley Longman, 1997), 287.
46 Pocock, above n 22, 1.
47 Rubin and Wooten, above n 3.
49 Mitchell, above n 24, 71; at 137 she records four different approaches to managing work and the care of children: work full-time and compromise family; pursue parenting and career at same time and compromise career; relinquish career for defined period; relinquish career indefinitely.
50 Note that Diane Houston (ed), Work-Life Balance in the 21st Century (Palgrave Macmillan, 2005), 97 recorded sacrifice among the response of non-workers to their decision to leave work to parent.
terms the ‘maternal wall’) as the assumption that motherhood does and should preclude women from performing as unencumbered workers and argues it is maintained by ‘old-fashioned stereotyping’ of gender roles, the marginalization of part-time workers and features of the workplace designed for the unencumbered worker.\textsuperscript{51} Thornton similarly states: ‘there is still a glass ceiling... there a residual suspicion of the feminine in positions of authority... the contemporary market discourse has erased a commitment to social justice and equality’.\textsuperscript{52} Summers contends that the analogy of the ‘glass ceiling’, commonly used to describe the phenomenon of women struggling to progress up the corporate ladder, is a misnomer as it implies you can see through it, know what you are missing out on and ‘smash’ through it: ‘if it were just a matter of picking up metaphorical sledgehammers and doing a demolition job, then surely the hordes of frustrated female executives hovering just under that ceiling would have broken through by now?’\textsuperscript{53}

Summers notes that, while the language of equality is commonplace in our discourse and there are a number of notable examples of individual women highly achieving in public life, the ‘economic, physical and social markers of women’s well-being’ is ‘in grim contrast to the rhetoric of equality and achievement’.\textsuperscript{54} Further, she notes that equality ‘is no longer something we as a society strive for’.\textsuperscript{55} The success of individual women in a male-dominated and led workforce does little more than offer role models for other women,\textsuperscript{56} particularly when such success is usually achieved by emulation of the unencumbered male worker.\textsuperscript{57}

As noted above, a significant source of concern for parent-only carers in this research

\textsuperscript{51} Williams, above n 48, 70; Joan Williams, \textit{Reshaping the Work-Family Debate: Why Men and Class Matter} (Harvard University Press, 2010), 5, 92-3.
\textsuperscript{52} Thornton, above n 48.
\textsuperscript{53} Summers, above n 17, 174.
\textsuperscript{54} Summers, above n 17, 2.
\textsuperscript{55} Ibid 6.
\textsuperscript{56} Kay Daniels and Mary Murnane, \textit{Australia’s Women: A Documentary History} (University of Queensland Press, 1980), 161-2.
study was of being ‘professionally forgotten’, such that they would be unable to re-enter the workforce at an appropriate level when the period of providing parent-only care for their young children had ended. At the point of involvement in this study, all of the research participants had young children. Consequently, they could only speculate with some trepidation about their potentially bruised career prospects following their absence from, or scaled down participation in, the workplace while their children are young.

An examination of the reflective literature suggests that these fears are well-founded. This literature documents that the effects of an absence from the labour market, or a period of scaled-down participation, can extend for the lifetime of their career. Research has established that attempts to re-enter professional life after an absence raising children is ‘exceedingly difficult’. Summers confirms that the effects of child-related absences from the workplace are of significant, and well-founded, concern to mothers. She asserts:

[T]he failure of society to address this problem in any meaningful way is just one more factor that women feed into the equation when deciding whether or not to have children. Many women are ready to sacrifice a few years to their children but most are not willing to abandon all hope of a future economic life for themselves – yet this is, increasingly, what society seems to expect, given the direction of government policy and the workplace practices that are common in so many companies today.

Scholars also note the epidemic of guilt amongst Australian parents at the work and parenting interface. Summers records the many manifestations of mother guilt experienced by contemporary Australian women. The emotional ‘pull’ to be with their young children and their perception of their children’s needs strongly shapes the choices women make regarding labour market participation. Probert draws attention to the ‘visible and damaging conflicts between women over family life and the care of

58 Summers, above n 17, 52.
59 Research from SA Hewlett, founder of Center for Work-Life Policy in the US, cited by Cannold, above n 1, 262.
60 Summers, above n 17, 52.
61 Summers, above n 17, 64-5.
62 Ironmonger, above n 19, 100.

She argues that guilt-driven consumption is well recognized and exploited by the commercial market, stating: ‘parental guilt feeds consumption, creating fertile commercial terrain’. Summers concludes:

... society as a whole is very quick to pass judgement on women and their choices... This, in a society that already exacts a very high price from women who choose to be mothers. Is it any wonder that many women suffer from stress and guilt?

**Initiating a new direction in Australian empirical research**

Despite the body of research on work, there is a significant gap in the research in terms of understanding the perspective of parent-only carers, whether in Australia or elsewhere, with respect to work. In documenting the importance of work for Australian parent-only carers, including reasons for working and the consequences associated with an inability to attain and maintain appropriate and meaningful involvement in the labour market, this research makes a contribution towards filling this gap in the literature.

**Conclusion**

This chapter has considered the phenomenon of work for parent-only carers. It commenced with a discussion of the empirical findings on the importance of work and the reasons why parent-only carers want and need to work, which include economic and non-fiscal factors. This chapter then considered the difficulties for parent-only carers marginalized from the labour market. While financial hardship caused by difficulty finding work compatible with parent-only care was highly lamented, the most

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63 Belinda Probert, cited in Summers, above n 17, 66.  
64 Pocock, above n 22, 102-4.  
65 Pocock, above n 22, 120.  
66 Summers, above n 17, 66-7.
commonly perceived cost was loss of the ability to engage in meaningful and stimulating work. Participants also reported significant fears associated with the loss of labour market attachment, fears of career stagnancy or decline and guilt at not contributing to the labour market.

As Chapter 1 argued, the marginalization of parent-only carers is not consistent with the values of equality and choice that underpin the Australian socio-legal system; there are also broader implications. The present structure is highly problematic in that it excludes from the labour market a pool of able and willing workers, many with significant experience and talents in their particular fields, at a time when the Australian economy has a pressing need for such workers to avoid skills shortages and to support the ageing population.

This chapter concludes the first section of the thesis, which has engaged in an in-depth exploration of the phenomenon of parent-only care as it intersects with labour market participation. The next chapter commences the middle section of the thesis, whereby the phenomenon is situated in a socio-legal framework. This middle section explores the historical and contemporaneous literature pertaining to the development and normalisation of work and parenting roles, and their separation by separate spheres ideology, to understand the socially-politically constructed and contingent nature of current work and parenting norms. This is contextualised within an understanding of the rhetoric of choice as a means of camouflaging the systemic nature of the problems inherent in this phenomenon. The thesis then engages in a detailed analysis of the current legal structure, critiquing the industrial and legal model as a vehicle for ensuring equality and choice for parent-only carers in terms of labour market participation before moving to consider proposals for reform.

Chapter 6 will commence this next section of the thesis by considering the development and present dominance of the separate spheres model, which structurally segreates work and parenting. It will consider the impact of key ‘actors’ in this model – the
unencumbered worker and the domestic support worker. The chapter will then consider the different factors that impact on the construction of work and parenting models and their contingency as dominant norms. The chapter will also present a case for fostering integration, rather than the continued separation, of the realms of work and family so that the work choices of those who seek to provide parent-only care are facilitated, rather than inhibited.
Chapter 6: Separate spheres ideology and the socially constructed and contingent nature of work and parenting norms

Introduction

The preceding chapter considered the phenomenon of work for parent-only carers. That chapter concluded the exploration of the phenomenon of parent-only care at the interface with work. This chapter commences the middle section of the thesis, moving the focus from the phenomenological documentation of the experience of parent-only care and work to situate this phenomenon within a socio-legal framework.

The existence of a socially constructed separation of the spheres of work and family life for parents, particularly mothers, of young children is one of the core theoretical notions underpinning this thesis. By the separate spheres ideology, work and parenting are formally separated, both notionally and physically, as detached realms of a parent’s life. Rather than complementary pieces of a puzzle, work and parenting are now considered to be in active tension. The ‘unencumbered worker’ is the notional basis for the current normative vision of the standard worker as one who is devoid of responsibilities or time commitments outside their paid working role. This chapter argues that this vision has been a significant force shaping modern working norms, along with the generally unremarked but expected presence of the ‘domestic support worker’. This is so notwithstanding that the model of the unencumbered worker is difficult to achieve for most workers, and near impossible for those with significant caring responsibilities such as parent-only carers of young children.

This chapter will commence with a detailed consideration of the key features of the separate spheres model, presenting participant insights on their experience of the separation between work and parenting. The findings of the empirical research are that the narrow and inflexible vision of work and parenting is central to the marginalisation of parent-only carers in the labour market. The research findings on the desirability of fostering integration of the realms of work and parenting will also be presented.
This chapter will then set these insights within the context of the literature, and will trace the historical development of the separate spheres model to understand the present power of the unencumbered worker norm. This chapter argues that the traits of the traditional ‘unencumbered worker’ have been exacerbated in recent times, to the detriment of parent-only carers.

The chapter will then consider some of the factors that influence the ways in which work and parenting norms are constructed and maintained, to highlight the contingent nature of hegemonic work and parenting roles and their inter-relationship. While the division between work and parenting is generally accepted in the present socio-political climate as a *fait accompli*; a separation that is at once natural, inevitable and increasingly difficult to overcome, an analysis of the inter-disciplinary literature pertaining to the defining of these roles shows that this separation is both socially constructed and transitory. This chapter argues that the interface between work and parenting is shaped by many variable dynamics, rather than by any essentialist truths about the nature of women and men and human social organization. Understanding the impact and interplay of these influences is important in discerning the roots of the present framework and enabling us to appreciate the effects of these influences on contemporary Australian society. It is also critical to recognition of the contingent and fluid nature of work and parenting norms and thus the ability to change these norms.

In considering the forces that have shaped present Australian culture, the impossibility of singularly defining the multiplicity of cultural discourses that collectively comprise present Australian society must be recognized. Despite the diverse socio-cultural mix that constitutes contemporary Australia, there are many marginalized populations oppressed by the dominant culture. The impact of the factors that shape the roles of mother, father and worker are

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substantially different depending on cultural background, ethnicity and race.³ Whilst acknowledging the multiplicity of different perspectives, this discussion will focus on the factors that have shaped present dominant ways of defining roles of parenting and work.

**Research findings**

**Our ‘one or the other’ society – the division between work and parenting**

The majority of research participants spoke of their experience of a separation or division between the realms of work and family, both in their lives and in society. As one participant said simply: ‘there is a big divide’ (P7). In the words of another: ‘[it’s] definitely a society where you’ve got one or the other, you don’t seem to be able to blend in between the two worlds’ (P3). A further participant noted that the divide was perpetuated by societal norms and assumptions, explaining: ‘certainly from society’s perspective I think the perception is there is still a divide, there’s quite a divide’ (P1). She provided detailed insight into how this separation practically influenced her work and parenting arrangements.

For many participants the separation between work and parenting meant they had to choose between meeting their child’s material or emotional needs. As one participant explained:

> It’s like you can either provide for your child emotionally and socially or you can provide for them materialistically... and not even material as in nice luxury, it’s just as simple as food and a roof on your head in this current time... and that’s the thing, parents have to provide that because they’re basic needs, but some of the basic social needs [of the child] matter to me more than the materialistic things. (P7)

**‘A struggle to marry the two’ – the overlap between work and family**

Rather than complementary spheres, for the majority of participants managing their parenting and work was the source of tension, friction and strain. As one participant explained: ‘I definitely feel that there’s two separate existences for myself... I definitely don’t see it as a partnership, it’s always something that’s a struggle to marry the two together’ (P2). The

The artificiality of the separate spheres model

The majority of participants considered that the separation of work and parenting is artificial. One participant reflected: ‘I think [the separation between work and parenting is] artificial… there’s different ways of looking at the interface between work and home’ (P16). Another participant noted: ‘I think that’s how our society works. Maybe a different society would integrate them more’ (P13). A further participant noted: ‘I do think there is scope to combine the two, but it would require a fairly significant societal shift’ (P15). A further participant expressed: ‘I think it could change with people’s perceptions’ (P11).

Many participants spoke of their belief that at the heart of the difficulties for parent-only carers in the workplace are the attitudes and mindsets of employers and of society, which generally adhere to conservative notions of work and are reluctant to embrace different or properly flexible work arrangements. This was discussed at length in both the individual interviews and the focus group. As one participant reflected:

That’s a whole other thing, to get people’s approach to work to change… I think [the way the work and parenting matrix is presently structured] is less than ideal but I think it’s just because of the ramifications of change, people’s considerations about potential lost productivity and liability, all these sort of risk issues that people have in their mind, I think it will take a while for people to accept it as an alternative, a valid alternative, productive way of working. But I do think it’s going to happen… It will get out there. (P4)
The majority of participants considered that many of the difficulties faced by parent-only carers in obtaining work and working are not due to inherent practical difficulties, but rather the dominant attitudes permeating most workplaces. As one participant reflected:

The classic case is the people getting rewarded who are there before the boss gets in and are there after the boss goes home. It doesn’t mean they’re the most productive people in the job. That’s a stigma that’s associated with most jobs – the longer you’re there, the more productive you are. And definitely that is something that needs to change. (P2)

Many participants perceived that part of the problem was the reluctance by employers, against the backdrop of the general concern about non-standard working arrangements, to trial different working arrangements. The participants stated that to do so requires a significant degree of trust on the part of the employer. As one participant explained:

My partner does usually work one day a week from home. And usually it’s just a day that he can spend with the kids. Now he will do work every evening and some weekends, so that he can have that day with the boys. But if his employer knew that he wasn’t sitting at his computer for nine hours that day, I don’t think his head would get around that, [despite that] he’s is doing well beyond what he is expected to do [each week]. (P1)

Another participant explained:

In my mind the word ‘work’ doesn’t necessarily conjure up an office only... since I’ve had children, I’ve had a chance to think about what work means, and I would say things like working at night, working from home, working in a different job to what you were, they would all be things I would say a working parent might do. (P9)

A further participant provided the following insight into the attitude held by her husband’s employer in justifying refusing his request for a four-day working week or part-time working-from-home option: ‘You have to be in your office, you have to be there by this time and you have to stay at least until five o’clock, preferably even longer’ (FGP3). Another participant similarly stated: ‘just because someone’s at the office desk from nine until five doesn’t mean they’re being the most productive’ (P1).

This issue was discussed in depth in the focus group, an excerpt of which is as follows:

FGP5: That’s been very hard – the whole mindset about: how do we monitor [the employee], [the employee is] not in the office – it’s that mindset...
For some participants, such as a lawyer who enjoyed highly autonomous working arrangements that were compatible with parent-only care, this was not an issue as they were able to establish a strong relationship with their employer, and successful track record of employment, prior to starting their family. Yet for others, particularly those who lacked longevity in their job and/or who had recently experienced a change of employer or industry or who had relocated, the lack of a pre-established relationship was of significant concern and significantly limited any options they had to work outside of dominant working patterns. Focus group participants reported that employer attitudes are the key factor determining whether parent-only carers are accommodated in the workplace, with a significant difference noted between ‘accommodating’ and ‘accepting’ non-standard working arrangements. Further, many research participants considered that, not only are fixed mindsets about work problematic for parent-only carers, fixed mindsets about parenting are also a significant contributing factor to their marginalisation from the workforce. Finally, it was noted by many participants that assumptions about working and parenting roles remain strongly gendered. The following statement is representative of the sentiments of many of those participants who spoke of this issue: ‘predominantly the parents that stay home are the females’ (P1).

The case for fostering integration

The perceived benefits of integration for parent-only carers

One of the most significant themes to emerge from this research was of the strong desire held by all participants for greater integration between work and parenting. The ability to combine parenting of young children and work was something that was highly valued by the minority of participants who enjoyed such arrangements. It was something that was sought after by all of the remaining participants, who strongly stated the case why they considered such integration desirable. Many participants couched this desire in terms of their own personal preference, for example: ‘I would love it if I could [combine work and parenting]’ (P13). In the words of
another: ‘I’d love to see [greater integration], it would be fantastic’ (P15). Many perceived there to be a broader social desire for integration, as the following comments show:

I do think it’s the way of the future... there’s millions of reasons you could point to but I do think that, at a personal level, not for all jobs but for some jobs, it’s a feasible way of working so it should be accorded thought and attention by whoever it is that makes decisions... (P4)

I am definitely wanting to see it [greater integration of work and parenting]. And I think lots of people are. (P19)

Many participants considered that, not only did they have a lot to contribute to the workforce if given the opportunity, they would actually be contributing at a higher level than before. As one participant commented: ‘I think that I have a huge amount to contribute...’ (P2). Another participant explained:

It’s a real shame, because since becoming a mother I think you just become better at managing things. And your priorities change... Now I think I’d be a much better employee. I think lots of mums would be. I just think mothers make better employees. (P19)

Many participants not presently in the workforce expressed the desire to obtain work that would enable them to continue providing parent-only care. One participant expressed strongly: ‘If I could have found any work that I could do at home, or that I could have taken my son to, I would have done it. I would have just picked him up and gone, “yep, not a problem”...’ (P11). Another participant explained: ‘if there was an option where you can do some work and you can also be involved with the kids’ (P1), she would have grasped it.

*The business case for fostering integration*

Many participants were very mindful of the employers’ perspective and spoke with appreciation of the difficulty for employers of juggling worker and client needs. Some participants expressed empathy about the difficulties for employers accommodating parent-only carers, as the following comments demonstrate:

It’s very difficult to accommodate, I understand that. I can see things from a business point of view... I can see it very clearly from both sides of the fence. But it’s just when I’m on this side of the fence, you do want to [work]. (P3)
I can understand from an employer’s point of view that it’s not ideal to only have someone work for [particular hours and] times. (P6)

Another participant was similarly empathetic, however she tempered this by noting that the types of conditions parent-only carers require can often be accommodated without difficulty:

I can understand why employers do find it difficult, because having people like me who can only work bits and pieces all over the place, it’s not like having somebody who’s there reliably all the time. But in saying that, the people who I’ve worked for have never ever complained about the fact that they might have to set a lecture time at five o’clock or afterwards. (P2)

Another participant noted that sometimes reservations held by managers within the public sector to such arrangements was because ‘in the public sector you’re always setting precedents and people are a bit wary of that sometimes’ (P4).

All of the participants considered that there were strong benefits for employers who were accommodating of parent-only carers. Some participants spoke of this in terms of the ability to retain trained and valued workers, as one participant reflected:

At one time there were a heap of people who were really well respected and professional people who should have been able to stay, but then they got slowly whittled away because they weren’t supported and you end up getting a bunch of new people who might not have had kids but might not have done the same or as good as job. We lost a lot of historical knowledge, a lot of skills. (P10)

Another participant similarly explained:

At my workplace we’ve got what’s called an ‘Accent on Parents Program’. Because they were finding that 75 per cent of people who had children resigned [after maternity leave], and that’s a huge brain drain. Because people who are having the kids are people like myself, managers who’d been there for ten years, and they’ve invested hundreds of thousands of dollars in their managers at this point. So they’ve put a real focus on that in the last three or four years, they’re really motivated to keep people. They are trying. And I think it’s in their interests to try. (P12)

A further participant said:

[School principal’s family-focused agenda] also has to do with the strategy of keeping lots of staff who already know their job at hand, as opposed to asking you to resign and then having to train new staff up. it’s a strategy that he’s taking on to keep his trained staff handy, but it also works for both parties, in that the teaching staff are happy and then he’s happy in having staff available. (P5)
Where workers are able to work from home, employers also reap benefits in terms of the reduced overheads and requirements for office space. One participant with this arrangement explained:

I know that Queensland Government’s also considering flexible work arrangements due to the lack of available CBD office space. So they’ve got other reasons I guess for sometimes wanting to say: ‘ok, we’ll give it a go and see what happens’... So I do think it’s a win-win situation, because you have potentially more resources at work to use for someone else, as well as someone still being as productive as they can, sitting at home. (P4)

Discussion

A qualitative voice amongst the wealth of theoretical literature on the separate spheres model

The research findings on the existence of the separate spheres ideology and its impact on workers resonates with the significant body of theoretical Australian and international literature. The research findings are important in illustrating the way in which this phenomenon is experienced by one subset of Australian parents. To date, the experience of Australian parent-only carers of young children vis-à-vis separate spheres ideology has not been documented. Aside from the small number of qualitative studies that have only incidentally touched upon this issue,^4^ there is only one qualitative study that is directly relevant and this work was undertaken in the American jurisdiction. That study, which explored the effects on parents’ choices at the work and parenting juncture in terms of the separate spheres model, is Blair-Loy’s research into the experience of women who left executive careers to stay at home and care for their children.^5^ Her research is important for her conclusion that, rather than an individual problem, the difficulties attaining ‘work-life balance’ must be recognised and addressed in light of an awareness of the power of ‘cultural schemas’ (the institutions of work and family) as frameworks shaping individual experience and choice.

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^4^ See Chapter 3.

Supplementing this minimalist body of extant empirical research is an extensive body of theoretical and reflective literature that is relevant in exploring the research findings. The contemporary theoretical literature has explored the inter-related effects of the spheres of work and family. This was initiated in the 1970s by researchers including Rapoport and Rapoport,\(^6\) Kanter\(^7\) and Piotrkowski,\(^8\) whose innovative research documented the significant, adverse impact that the spheres of work and family had upon the other.\(^9\) Building upon this work, more recent scholarship has acknowledged the disharmony between the separate spheres\(^10\) and established that the inter-relationship between the household and the labour market can create tension.\(^11\) The theoretical literature affirms the view of many research participants that work-family clash is most pronounced during the children’s early years.\(^12\)

Greenhaus and Beutell\(^13\) contend that work and family conflict is precipitated by the presence of ‘role pressures from the work and family domains [that] are mutually incompatible in some respect’.\(^14\) They identify three strands of work-family conflict: time-based conflict;\(^15\) strain-based conflict;\(^16\) and behaviour-based conflict.\(^17\) These types of conflicts can separately or

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\(^8\)Catherine Piotrkowski, *Work and the family system: A naturalistic study of working class and lower middle-class families* (Free Press, 1979). These theorists are discussed by Kate Spearritt and Don Edgar, *The family-friendly front: A review of Australian and international work and family research* (National Key Centre in Industrial Relations, 1994), 7.

\(^9\)This was contrary to the trends of research at that time to ignore the effects of work on family life: Audrey VandenHeuvel and Australian Institute of Family Studies, *When Roles Overlap: Workers with Family Responsibilities* (Commonwealth Government, 1993).


\(^12\)Jacobs and Gerson, above n 10, 96.


\(^14\)Greenhaus and Beutell, ‘Sources of conflict between work and family roles’, above n 13.

\(^15\)Where time demands of one role interface with participation in the other role: ibid.

\(^16\)Where stress symptoms such as fatigue and irritability produced in one role intrude into the other role: ibid.
cumulatively result in acute tension for working parents. Smith attributes the root of work-family conflict differently, as stemming from practices and cultures that ingrain assumptions about traditional gender roles, the privileging of paid work over parenting and the separate spheres phenomenon.\textsuperscript{18} Still and Williams argue that societal perspectives of being a ‘good’ mother as one who is always available to her children clashes with the norm of the unencumbered, ‘ever-available’ worker and that this results in ‘role incongruity’, in which mothers’ workforce potential is challenged on the grounds that their parental role precludes their ability to be good workers.\textsuperscript{19} The findings of this doctoral research suggest that the cultural norm of separation between the realms of parenting and work under the dominance of separate spheres ideology is internalised so that the participant perceives herself split accordingly. As Sandlin explains, a dominant discourse can operate as a ‘master narrative’ which privileges a particular view while silencing others. It is internalised by those it seeks to represent and is thus reproduced.\textsuperscript{20} Andrews notes that master narratives ‘offer people a way of identifying what is assumed to be a normative experience’.\textsuperscript{21} Separate spheres ideology is one such master narrative.

The interrelationship between work and family has been described as having important ‘spillover’ effects between the spheres.\textsuperscript{22} Consistent with the empirical findings, the literature documents that the negative effects are the most pervasive. The adverse effects on family life resulting from work are associated with particular features of work, including the timing of

\bibitem{notes}{Where behaviours that are functional in one role are dysfunctional in the other role: ibid.}{16}

\bibitem{notes}{Belinda Smith, ‘Not the Baby and the Bathwater: Regulatory Reform for Equality Laws to Address Work-Family Conflict’ (2006) 28 Sydney Law Review 689, 690.}{18}

\bibitem{notes}{Mary Still and Joan Williams, ‘A Legal Perspective on Family Issues at Work’, in Marcie Pitt-Catsouphes, Ellen Kossek and Stephen Sweet (eds), The Work and Family Handbook: Multi-Disciplinary Perspectives, Methods, and Approaches (Lawrence Erlbaum Associates, 2006), 315.}{19}

\bibitem{notes}{Jennifer Sandlin, ‘Consumption, Gendered Stereotypes and the Struggle for Respect’, in Mary Alfred (ed), Learning for Economic Self Sufficiency (Information Age Publishing, 2010), 156.}{20}

\bibitem{notes}{Molly Andrews, ‘Counter-narratives and the Power to Oppose’ in Michael Bamberg and Molly Andrews (eds), Considering Counter Narratives: Narrating, Resisting, Making Sense (John Benjamins Publishing Co, 2004).}{21}

\bibitem{notes}{Ann Crouter, cited in Neal, Chapman, Ingersoll-Dayton, et al, above n 10, 3.}{22}
work, the number of hours worked, work load, the location of work, the intellectual and physical effort required and pressures for speed or quality.23

Insights on the development and contingency of the separate spheres model offered by the historical, sociological and philosophical literature

The abundant theoretical literature, in particular from the disciplines of history, sociology and philosophy, on the separate spheres model provides a comprehensive background for understanding the participants’ experience. A brief overview of this literature will thus now be provided.

An historical perspective – the effects of industrialism on work and parenting norms

The existence of a separation between the realms of work and parenting was first retrospectively documented in the sociological literature in the mid-twentieth century.24 The divisive separation of the realms of home and work are documented to have emerged during the era of industrialism, concomitant with the birth of capitalism.25 Prior to industrialism, the seamless integration of productive work and childcare was ‘normal for most of human existence’.26 The family was considered the economic hub of society.27 Within this family

23 VandenHeuvel and Australian Institute of Family Studies, above n 9, 6-7.
24 See for example the work of Parsons and Bales (1955), discussed in Neal, Chapman, Ingersoll-Dayton, et al, above n 10, 11 and below n 116.
25 It is important to appreciate that the industrial revolution was not an abrupt and clearly defined event. The incremental evolution towards industrialized organization is particularly apparent in England, where the emergence of capitalism can be seen as early as the tenth century. However, it was technological invention and the introduction of heavy machinery and therefore factory-based work in the eighteenth and nineteenth centuries that heralded the beginnings of fundamental change in the labour market. It was these changes that necessitated that workers both leave their homes to perform work and work hours designated by others: Katrina Alford, Production or Reproduction? An Economic History of Women in Australia, 1788-1850 (Oxford University Press, 1984); Sylvia Ann Hewlett, A Lesser Life (Morrow, 1985); Antoinette Burton in Norma Grieve and Patricia Grimshaw (eds), Australian Women: Feminist Perspectives (Oxford University Press, 1981); Rosamond Mitchell and Mary Leys, A History of the English People (Longmans Green and Co, 1950).
27 Margaret Adamson, Australian Women Through 200 Years (Kangaroo Press, 1988); Ann Curthoys in Ann Curthoys, Susan Eade and Peter Spearritt, Women at Work (Australian Society for the Study of Labour History, 1975), 89; Patricia Grimshaw and Graham Willett in Grieve and Grimshaw, above n 25; Patricia Crawford in Patricia Crawford (ed) Exploring Women’s Past (George Allen and Unwin, 1984), 2; Alford, above n 25. Within the family, men, women and older children worked together at joint family enterprises: Grieve and Grimshaw, above n 25. Economic historians have recently recognized the significance of household activities to pre-industrial economies,
economic unit, women played an important economic role. Childbearing and raising were integrated into the work of families in the same manner as other duties essential to the survival of the family and society, part of a ‘wider network of responsibilities’ necessary to the functioning and economic wellbeing of the family. This structure was prevalent, largely irrespective of the socio-economic status or background of the family. This is in sharp contrast with the modern, western stereotype of a mother who predominantly devotes her time to the care of her children.

Mothers worked within and outside the home in paid labour in occupations that allowed for the integration of childrearing. The environment supported the presence of children and the

rivaling ‘not only the major sectors, such as mining and manufacturing, but the whole market economy itself’: Michael Gilding, ‘Gender roles in contemporary Australia’ in Hughes, above n 2; Duncan Ironmonger (ed), Households Work: Productive Activities, Women and Income in the Household Economy (Allen &Unwin, 1989). Women worked in a diversity of endeavours including agriculture, industry, trades, markets, management of inns and boarding houses, household tasks and the care and education of children: Solomon Encel and Dorothy Campbell, Out of the Doll’s House: Women in the Public Sphere (Longman Cheshire Pty Limited, 1991); Alford, above n 25; Edna Ryan and Anne Conlon, Gentle Invaders: Australian Women at Work (Penguin Books, 1989), 5; Katie Spearritt in Rae Frances and Bruce Scates (eds) Women, Work and the Labour Movement in Australia and Aotearoa/New Zealand (Australian Society for the Study of Labour History, 1991), 138-141; Crawford in Crawford, above n 27, 54; Mitchell and Leys, above n 25; Prue Torney-Parlicki and Alison Alexander, A wealth of women: Australian women’s lives from 1788 to the present (Duffy & Snellgrove, 2001); Adamson, above n 27; Rae Frances and Bruce Scates, Women at Work in Australia: From the Gold Rushes to World War II (Cambridge University Press, 1993), 43-48; Sandra Berns, ‘Women in English legal history: Subject (almost), object (irrevocably), person (not quite)’ (1993) 12(1) University of Tasmania Law Review 26. Women also worked outside the home, primarily in family enterprise, domestic service or the developing occupations of nursing, teaching and typing: Alford, above n 25; Ryan and Conlon, above n 28, 15, 19; Torney-Parlicki and Alexander, above n 28; Frances and Scates, above n 28, 107, 115. Cohesively, women’s work included a diverse range of activities that would, in contemporary Australian times, be separately categorized under the headings of economic labour, domestic labour and mothering. A discussion such as this unfortunately necessitates the making of sweeping generations, particularly in circumstances where, as here, there is limited and generalized information available. It must be recognized that the individual lives of women differed dramatically, with greater difficulties faced by unmarried women, particularly those from lower socio-economic positions: Alford, above n 25. Convict women in particular had a very limited range of economic and social options, often lacked family support and were thus forced to engage in the lower-end domestic work; some were consigned by economic necessity to a sexual servicing role: Alford, above n 25; Ryan and Conlon, above n 28, 19. Assisted immigrants were subjected to a similar fate: Ryan and Conlon, above n 28, 48; Alford, above n 25. In Indigenous families, women performed most of the “daily survival work”, including the foraging for, preparation of, and cooking of food, making of utensils and tasks associated with the bearing and raising of children: Adamson, above n 27; Curthoys in Curthoys, Eade and Spearritt, above n 27, 89. Sheila Kitzinger, Ourselves as mothers: The universal experience of motherhood (Addison-Wesley, 1995), 218.

Grieve and Grimshaw, above n 25.

Kitzinger argues this image is accurate only for the small percentage of women who are sufficiently economically supported to enable this choice: Kitzinger, above n 29, 217, 218.

Including agriculture, industry, trades, village markets, managing inns and boarding houses, domestic work and raising and caring for children: Alford, above n 25; Ryan and Conlon, above n 28, 5; Spearritt in Frances and Scates,
validity of mothers being simultaneously engaged in productive work and caring work was accepted. The bearing and rearing of children was recognized as being central to the survival and evolution of society and was considered an economic function in itself.

Boserup, Probert and Gambles et al contend that the integration of caring and domestic work with other types of work characterise pre-industrialised societies throughout the world, including in contemporary rural and traditional societies that have not industrialized. Ironmonger concludes:

Prior to industrialization the ‘family’ was seen as the basic social and economic unit... However, with the advent of industrialization, the family as an economic unit diminished in importance. The household is no longer considered to be the locus of production; production is now seen to take place in the market economy.

Core developments associated with industrialism included, firstly, the contraction of the family economy. The rise of industry brought a decline in the economic functions and value of the domestic sphere, replaced by large-scale productive enterprises. With the contraction of the family economy came the separation of the spheres of home and work and the distinction

above n 28, 141; Crawford in Crawford, above n 27, 54; Encel and Campbell, above n 28; Mitchell and Leys, above n 25; Torney-Parlicki and Alexander, above n 28; Adamson, above n 27; Berns, above n 28.,

Berns, above n 28; Grieve and Grimshaw, above n 25.

Alford, above n 25.


Probert, ‘Women’s working lives’, in Hughes, above n 2; Encel and Campbell, above n 28.


By describing the integration of parenting and work that was a dominant characteristic of this epoch, the intention is not to romanticize the child-rearing approaches prevalent at this time – see Robin Grille, *Parenting for a Peaceful World* (Longueville Media, 2005), which would certainly argue against such a construction.

Ironmonger, above n 27, 20.

Ryan and Conlon, above n 28, 3; Berns, above n 28; Alford, above n 25; Probert, ‘Women’s working lives’, in Hughes, above n 2.

Domestic and cottage-based industries, predominantly the domain of mothers, were replaced by workshops and factories: Alford, above n 25; Berns, above n 28; George Trevelyan, *English Social History: A Survey of Six Centuries from Chaucer to Queen Victoria* (Longman’s, Green and Co Ltd, 1944); Probert, ‘Women’s working lives’, in Hughes, above n 2.

Alford, above n 25; Margaret Alston, *Women on the Land: The Hidden Heart of Rural Australia* (UNSW Press, 1995); Berns, above n 28; Grieve and Grimshaw, above n 25.
between working and domestic life. Economic production moved from the home to retail and trading enterprises. There was a division between paid and unpaid work and the designation of childrearing as ‘women’s work’. The notion of ‘work’ came to reflect waged labour performed outside of the home and discounted domestic labour. Work and parenting were separated both in space and in time. There with a sharp decline in work options that permitted concurrent care of young children. For the first time, women were forced to choose between working and caring for their children. Thornton explains:

The concept of ‘going out to work’ belongs to the era of sharp separation of working at the modern specialized occupations from the rest of living. Though physical separation is involved and is a significant factor, it is not quite the main thing... The modern London woman who goes out to work must make not only the physical journey out to the work place but the notional journey out from diffused attention to her many life activities and responsibilities to concentrated attention to the labour function performed for her employer. Trevelyan contends that these factors drove women out of the economic activities in which they had formerly taken an active part.

Compounding the separation of the spheres of home and work and the categorization of the work performed in each sphere in a gender-specific way was the increasing categorization and regulation of work. ‘Work’ was increasingly constituted by ‘skilled’ trades worked predominantly by men and there was increasing regulation of the remaining work women

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43 Encel and Campbell, above n 28; Michael Gilding, ‘Gender Roles in Contemporary Australia’, in Hughes, above n 2, 102, 105.
46 With the removal of skilled crafts and trades from the household to factories, wives were no longer able to share in their husband’s trade. There was no infrastructure to enable work skills to be passed on within families, and few new jobs were compatible with childrearing: Alford, above n 25; Ryan and Conlon, above n 28, 13.
47 Crawford in Crawford, above n 27, 2; Adrienne Rich, Of Woman Born: Motherhood as Experience and Institution (W W Norton & Company, 1986), 49.
48 Margaret Thornton in Curthoys, Eade and Spearritt, above n 27, 103.
49 This point is also made by Ryan and Conlon, above n 28, 7.
50 Peggy Morton argues that women were excluded from industries at the point when investment in training was required, as women would generally interrupt the application of their training to bear and raise children and men were therefore preferred: in Curthoys, Eade and Spearritt, above n 27, 103.
could perform in the home, with new standards and conditions imposed.\textsuperscript{51} In contrast to previous times, the types of work that emerged for women\textsuperscript{52} were away from the home, with conditions that generally disallowed women from bringing and caring for their children whilst at work.\textsuperscript{53}

Finally, the designation of childrearing as ‘women’s work’\textsuperscript{54} and the comparative devaluing of this type of work\textsuperscript{55} also facilitated the separation. Once childrearing was designated women’s work, women were no longer considered to be equal participants in the family’s struggle\textsuperscript{56} and were transformed from economic assets to economic liabilities.\textsuperscript{57} Macfarlane\textsuperscript{58} argues that children were similarly problematised as economic burdens, a view that has perpetuated in wealthy western countries.\textsuperscript{59} Probert explains:\textsuperscript{60}

Taking care of children and working became mutually exclusive activities. The very notion of two separate spheres of life – the public and the private – was born. In leaving the home to go to work, men entered the public world of industry, commerce and politics. By remaining in the home, women were confined to a private world of cleaning, nurturing and emotional labour, for which they were not paid.

With the separation of work and parenting came the hegemonic normalization of the family as an isolated nuclear family consisting of a male ‘breadwinner’, a dependent housewife/mother and dependent children. By the beginning of the twentieth century, the idea of the ‘harvester’ breadwinner was expressed by Higgins J in an historic industrial case.\textsuperscript{61} The assumptions

\textsuperscript{51} Alford, above n 25; Berns, above n 28; Trevelyan, above n 41; Ann Oakley, \textit{Housewife} (Allen Lane, 1974).
\textsuperscript{52} Which included factory-based employment; employment in the commercial sector as typists, telephonists and book-keepers; employment in the retail trade as shop assistants; and employment in service industries such as nursing, teaching and welfare work: Adamson, above n 27.
\textsuperscript{53} Alford, above n 25; Palmer, above n 26.
\textsuperscript{54} Alford, above n 25; Alston, above n 42; Berns, above n 2; Hewlett, above n 25; Rich, above n 47.
\textsuperscript{55} Alford, above n 25; Palmer, above n 26; Rich, above n 47.
\textsuperscript{56} Hewlett, above n 25.
\textsuperscript{57} Berns, above n 28.
\textsuperscript{59} In recent times, the cost of raising children has been allocated a dollar value (see for example: http://www.news.com.au/money/money-matters/cost-of-raising-a-child-to-18-is-now-1-million-according-to-research/story-e6frfmd9-1225803963004) or quantified by reference to high cost material items such as a Ferrari (see for example: http://www.dailymail.co.uk/news/article-2159624/American-children-cost-235-000-raise-age-18.html).
\textsuperscript{60} Belinda Probert, \textquote{Women’s Working Lives, in Hughes, above n 2, 153.}
\textsuperscript{61} 2 CAR 3.
underpinning this decision, which designated the base wage as one which should meet ‘the normal needs of an average employee, regarded as a human being living in a civilized community’, was that the ‘average employee’ was a male who supported a wife and three children. By casting the definition of the male breadwinner in receipt of the award wage in a way that was inextricably linked with a financially dependent wife and children, it was implicit that women were both economically dependent and solely responsible for the care of the children whilst the father was absent at work. As Larmour notes, this was a ‘social judgment’ only and not one based on statistics. However, it was a powerful force in setting social and cultural norms, institutionalizing the ideal of a heterosexual, breadwinner male heading a nuclear family with a financially dependent homemaker wife.

From this historical appraisal of the role of industrialism in the development of separate spheres ideology, this chapter will now briefly consider some of the other discourses that impact upon the way in which work and parenting norms, and the separation of work and parenting, were developed and are maintained. These influences include capitalism and consumerism, fundamentalist religious discourse and philosophical and ‘expert’ opinion.

**The influence of capitalism and consumerism**

Any reflection on the role of parents and workers in the Australian context must acknowledge the hegemony of the twin discourses of capitalism and consumerism in society, which have a vested interest in constructions of work and parenting roles. At the heart of capitalism is the primacy of private enterprise and production for profit. The emphasis placed by neo-liberal

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62 Ibid.
61 In Curthoys, Eade and Spearritt, above n 27, 47.
64 Chapman, above n 1, 454, 458. Note that, despite its centrality to a diversity of core academic debates, surprisingly little attention has been paid to theorizing and operationalising breadwinning, and it is generally attributed a common sense meaning in current sociology. There is the absence of an agreed, or contested, understanding of the concept, although identified elements include: breadwinner as main financial provider (sole or dominant, as opposed to dual, wage-earner); breadwinner as main labour market participant; male breadwinner as ideology and policy prescription; male breadwinner as masculine identity: Tracey Warren, ‘Conceptualising Breadwinning Work’ (2007) 21(2) Work, Employment and Society 317.
65 Probert, above n 2, 160-161.
capitalism on the ‘primacy of the unfettered free market’ fuels high workplace expectations and drives the development of perceptions of what constitutes workplace ‘commitment’. Some writers call for recognition of the impact of the culture of consumerism in driving the ‘culture of overwork’ which has resulted in the normalization of the current Australian long-hours of work culture. Pocock notes the cyclical effect of the ‘work-spend cycle’, with increasing consumption and commodification driving increased working hours. She notes: ‘... increased parental work drives greater commodification of care and parental spending through guilt-induced consumption. Work/spend cycles are socially constructed and contagious.’ Schor similarly recognizes that the push for efficiency and convenience, which underpins the dominance of paid work in individuals’ lives, is inextricably linked to the power of money and consumerism. In the American context, Stefancic notes that the ‘pursuit of property’, rather than the ‘pursuit of happiness’, would more accurately reflect present American values, with the ‘pursuit of wealth and profits’ retaining supremacy.

The very structure of capitalism creates substantive inequalities. Capitalism derives obvious benefits from the gendered division of the labour market. Occupational sex segregation is fundamental to capitalism, as it increases the costs and decreases the benefits of the ‘encumbered’ worker participating in the labour market, ensuring that the family retains the

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66 Chapter 9, 3-5, discusses the meaning of neo-liberalism in Australia.
67 Gambles, Lewis and Rapoport, above n 37, 44.
68 Jacobs and Gerson, above n 10, 143; Juliet Schor, The Overspent American: Why We Want What We Don’t Need (Basic Books, 1998).
70 Ibid 17.
74 Susan Okin, Women in Western Political Thought (Princeton University Press, 1979), 303. See also Zillah Eisenstein, Capitalist Patriarchy and the Case for Socialist Feminism (Monthly Review Press, 1979), which was one of the earliest works to present a Marxist and feminist critique of patriarchy, arguing that gender and class intersect as systems of inequality.
costs and responsibilities of reproducing the unencumbered worker.\textsuperscript{75} The household is also an important unit of consumption and the importance of consumption to capitalism is obvious.\textsuperscript{76} Despite the declining existence of the nuclear family, the vision of a breadwinner supported by an unpaid domestic worker who enables the breadwinner to function as an unencumbered worker remains at the core of current legislation and policies in the areas of industrial, family and taxation law.

Thus, one premise for this discussion is that there is a direct link between the implicit goals of capitalism and the constructed role of parents, particularly mothers, in society. Egalitarian arrangements such as shared parenting, which as the empirical data establishes are highly valued by many parent-only care families as a way to balance and arrange working and caring responsibilities,\textsuperscript{77} are penalized within a capitalist economy which rewards emulation of the unencumbered worker.\textsuperscript{78} This is particularly so given the new form of ‘hypercapitalism’\textsuperscript{79} emerging in western industrialised nations.\textsuperscript{80}

Paternalistic conservatism is also an important factor that interconnects with capitalism in shaping the roles of parents and workers in society. In Australia, paternalistic and conservative elements embedded strong roots from colonialization. Historically, marriage and the rearing of large families were valued for economic, demographic and social reasons and were driven by the joint forces of government policy and social stereotyping of women’s role as housewives

\textsuperscript{75} Thornton, above n 73, 65-66; Heidi Hartman, ‘Capitalism, Patriarchy, and Job Segregation by Sex’ in EA and EK Abel (eds), \textit{The Signs Reader: Women, Gender and Scholarship} (Chicago University Press, 1983), 195; Ryan and Rowse, in Curthoys, Eade and Spearritt, above n 27, 16-17.

\textsuperscript{76} Ryan and Rowse argue that the nuclear family uses proportionately more consumer durables than extended or communal family groups, as a consequence of the higher requirements for household goods such as washing machines, dishwashers and clothes driers that results from the grouping of people in smaller groups and the predominantly exclusive use by each group of each item: Ryan and Rowse, in Curthoys, Eade and Spearritt, above n 27, 16-17. Pocock, above n 69, 29.

\textsuperscript{77} See Chapter 4.

\textsuperscript{78} Thornton, above n 73, 66.

\textsuperscript{79} Hyper-capitalism is defined as ‘extreme capitalism at the expense of traditional values’: "hypercapitalism." Definitions.net. STANDS4 LLC, 2013. Web. 29 Apr. 2013. <http://www.definitions.net/definition/hypercapitalism>.

\textsuperscript{80} Stefancic, above n 72, 816; Ruth Colker, \textit{American Law in the Age of HyperCapitalism: The worker, the family, and the state} (NYU Press, 1998) xi.
The conservative focus on the development of close familial groups and rapid population growth emphasised the female identity as wives and mothers and not as productive workers. This ‘family-fixated conservatism’ has endured, pervading the ‘political culture’ of Australia. It remains consistent with the ‘largely conservative tenor of Australian values’ towards parenting and work for mothers of young children.

**The impact of fundamentalist religion on work and parenting norms**

Fundamentalist religion has also played a significant role in dictating work and parenting norms. In Australia, the influence of religious discourse is particularly pronounced under conservative governments. In *God Under Howard*, Maddox explores former Australian Prime Minister Howard’s ‘spiritual assault on Australian values’. She asserts that Howard used ‘family values’ rhetoric to advance a conservative social agenda, which is exemplified in the covert appeals his government made to religious authority in the context of debates on issues including parenthood. Despite the election of a Labor government in 2007, on a far less conservative mandate, the dominance of religion persisted with then Prime Minister Rudd renowned for the strength of his religious conviction, and its impact on his policy making.

By appreciating the role of fundamentalist religious dogma in shaping political decision-making, the impact of these discourses in shaping social and cultural expectations of gender roles and therefore implicitly notions of work and parenting is apparent. The Howard government’s socially conservative agenda blatantly privileged the nuclear family and repeatedly drew upon the 1950s ‘ideal’ of a mother at home with her children. By privileging the importance of notions of ‘family’, ‘values’ and ‘social stability’, Howard recast extreme right wing social

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82 Spearritt in Frances and Scates, above n 28, 144, 146; Rich, above 47, 45.
83 Frances and Scates, above n 28, 144, 146.
84 Berns, above n 2, 144.
87 Ibid 282-3.
88 Ibid 192.
conservatism as mainstream. This focus has not been substantially redirected under Labor’s first two terms of leadership, despite Prime Minister Julia Gillard’s professedly atheist stance, although there has been some movement towards a more egalitarian view of women in the labour market.

It is therefore apparent that historical and sociological discourses, including capitalism, consumerism, paternalism, conservatism and fundamentalist religion, are significant in shaping the ways notions of work and parenting are construed. The discussion will now consider the role of philosophical and ‘expert’ opinion.

**Philosophical and ideological reflection on gender and work roles**

Discerning the ‘nature of women’ in relation to their role as mothers and workers is a topic that has attracted the attention of a broad range of thinkers. The dominant voices that will be considered for present purposes are feminist discourse and philosophical and ‘expert’ opinion.

*Feminist discourse*

Some of the most prominent voices in relation to women’s roles have emanated from the disparate feminist theorists. Feminism offers a voice for women in opposition to patriarchy. While the significant feminist concern has centred on developing gender justice and addressing the dichotomy between public and private life, divergent movements within feminist discourse have resulted in women’s roles as mothers and as workers being constructed in distinctly different ways. At times, this has been the source of acute tension.

Equal pay and equal opportunity in work and public life have been core themes of the women’s

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89 Ibid 69.
90 For example, the recent introduction of Paid Parental Leave, discussed in Chapter 8, supports the involvement of primary caring parents in the workforce.
liberation movement.\textsuperscript{94} This has frequently been associated with disregard for points of gender difference, including mothering.\textsuperscript{95} The predominant feminist discursive concern was with recognizing and protecting women’s role as workers and citizens equal to (and the same as) men.\textsuperscript{96} The involvement of women in the paid workforce was valued as increasing the economic, social and political opportunities available to women, notwithstanding the recognized difficulties for women.\textsuperscript{97} Measures that removed responsibility for the care of children and allowed women to participate in public life in the same manner as men, such as institutionalized childcare, were sought.\textsuperscript{98} Feminists directed their efforts at devising strategies that would enable women to compete on an equal playing field with men by masking sexual differences and emulating men. Mothering came to be seen as a major cause of women’s subordination and social dependency.\textsuperscript{99} Some strands of feminist thought have been actively opposed to women being mothers, with more extreme proponents calling for technological innovation to remove the ‘burden’ of bearing children from women. Early neo-feminists saw motherhood as a ‘vehicle for female enslavement’\textsuperscript{100} and the major barrier to women’s freedom.\textsuperscript{101} This approach effectively affirmed the ‘separate spheres’ ideology, with its vision of the ‘unencumbered worker’.\textsuperscript{102} As Hewlett notes:\textsuperscript{103}

Very few [feminists] have attempted to integrate [mothers and babies] into the fabric of a full and equal life... The modern women’s movement has not just been anti-men; it has also been profoundly anti-children and anti-motherhood.

\textsuperscript{94} From about the 1940s onwards in Australia, there was a marked discursive shift among some feminist positions that privileged concerns with the rights of working women over those of mothers at home: Marilyn Lake, \textit{Getting Equal: The history of Australian feminism} (Allen & Unwin, 1999), 202.
\textsuperscript{95} Lake, above n 94, 202, 226.
\textsuperscript{96} Belinda Probert, ‘Introduction’, in Grimshaw, Murphy and Probert, above n 3, 1, 5; Lake, above n 94, 106.
\textsuperscript{97} Encel and Campbell, above n 28, 29. Note that economists have recently pointed out shortcomings in the Klein-Myrdal argument, primarily critiquing their acceptance of the division of male and female labour in the family, the assumption that women were naturally more suited to particular occupations and their expectation that industrialization and social progress would bring equality between the sexes: Encel and Campbell, above n 28, 29-30.
\textsuperscript{98} Caine, above n 44, 228; Lake, above n 94, 196, 256-257; Encel and Campbell, above n 28, 142.
\textsuperscript{101} Caine, above n 44, 227; Lake, above n 94, 217.
\textsuperscript{102} Belinda Probert, ‘Introduction’, in Grimshaw, Murphy and Probert, above n 3, 1, 5; Lake, above n 94, 106.
\textsuperscript{103} Hewlett, above n 25, 149.
Dux and Simic’s research leads them to assert that ‘mothers are the women that feminism forgot’.\textsuperscript{104}

In tension with this position have been strands of feminisms that have celebrated mothering and the importance of women’s role as mothers.\textsuperscript{105} Motherhood was considered to be a source of women’s strength, a uniquely feminine role,\textsuperscript{106} and rather than seeking sameness, gender difference was celebrated.\textsuperscript{107} The concern was that an emphasis on the role of women as workers and self-actualising individuals marginalized the role of women as mothers.\textsuperscript{108}

Some feminists acknowledged the need to bridge the separation between paid work and mothering. A significant quandary was to conceive a way to recognize the exclusively female experience and the contribution women make to society as mothers, without confining women’s identity to an essentialist notion of womanhood.\textsuperscript{109} This remains a feminist dilemma.

Feminist discourse in Australia has thus been characterized by often tense and polar perspectives. In particular, feminist dialogue on mothering and childcare has been fraught.\textsuperscript{110} The shifts in focus among feminist discourse have been significant in influencing the construction of work and parenting norms. Notions of mothering in particular have significantly fluctuated in response to shifts in feminist discourse. Importantly, however, notwithstanding their varied positions, common to most of the different strands of feminist theory was and

\begin{footnotesize}
\begin{enumerate}
\item[\textsuperscript{104}] Monica Dux and Zora Simic, \textit{The Great Feminist Denial} (Melbourne University Press, 2008), 90.
\item[\textsuperscript{105}] For example, in the 19\textsuperscript{th} and early 20\textsuperscript{th} centuries, motherhood was generally held in high esteem by feminists: E. Cady Stanton in an address to the National Woman Suffrage Association in 1885, cited in Hewlett, above n 25, 144; Lake, above n 94, 66-67.
\item[\textsuperscript{106}] Feminists from this perspective included Vaier, Hill Collins, Held, Ruddick and Willet: Mullin, above n 100, 119-20.
\item[\textsuperscript{107}] Dux and Simic, above n 104, 113.
\item[\textsuperscript{108}] Anne Manne, \textit{Motherhood: How Should We Care for Our Children?} (Allen &Unwin, 2008); Dux and Simic, above n 104, 114.
\item[\textsuperscript{109}] Caine, above n 44, 225-6; Everingham is concerned with this dilemma in her book: Everingham, above n 99. Such feminist approaches included those who campaigned for ‘mothers’ work’ in child bearing, rearing and domestic duties to be remunerated, to develop a more inclusive understanding of work and to enable women to care for their children and be economically independent: Lake, above n 94, 74; Dux and Simic, above n 104, 115. Independent remuneration for domestic work was valued both for achieving economic independence, and for according social recognition to the equally valuable contribution to production made by women: M. Heagney in Lake, above n 94, 179.
\item[\textsuperscript{110}] Encel and Campbell, above n 28, 140-2.
\end{enumerate}
\end{footnotesize}
remains the contention that women’s roles as mothers and workers are socially constructed.\footnote{See for example Okin, above n 93, 6. However, even this perspective was contested by other strands of feminist thought: See for example Kerreen Reiger, The Disenchantment of the Home (Oxford University Press, 1985); Caine, above n 44, 230; Everingham, above n 99. This post-modern perspective, informed by Foucaultian discourse, considered that notions of ‘motherhood’ and ‘family’ were constituted through professional discourses as a means of social control: Caine, above n 44, 229. Walkerdine and Lucey have used Foucault’s analysis of knowledge and power as a framework for arguing that psychological models are in themselves regulatory, with mothers ‘managed’ and repressed through these psychological discourses: Everingham, above n 99, 16.}

\textit{Philosophical and ‘expert’ reflection on the nature of women and gender roles}

The voices of philosophers and, more recently, ‘experts’, often essentialise the nature of women, children and gender and, by implication, the interaction of parenting and work. Dating from the romantic notions of motherhood developed by Rousseau in the 18\textsuperscript{th} century,\footnote{In Emile, 1762, discussed by Grille, above n 38, 60, 158.} a plethora of images of motherhood has been presented. The sentiments of ancient philosophers\footnote{In the Republic, Plato controversially deemed women able to participate in public life: Plato (Desmond Less, translator), The Republic (Penguin Classics, 2007); Okin, above n 74, 38-39. Some limitations to women’s participation were later prescribed by virtue of their status as private wives: Okin, above n 74, 49, 233 - 234; Plato (Bejamin Jowett, translator), The Laws (Create Space, 2010). Rousseau argued that the consequences of sex are inevitably far greater for women than men: Jean-Jacques Rousseau, Emile (Prometheus Books, 2003); Okin, above n 74, 118. He privileged the patriarchal family as both natural and necessary for the preservation of social order: Okin, above n 74, 191, 235-236. Rousseau continued that the ‘proper purpose’ for women is the bearing of children: Okin, above n 74, 118. He argued that the role of women as mothers substantially shapes her personality and her educational requirements: Okin, above n 74, 116. John Stuart Mill, The Subjection of Women (Dover Thrift Editions, 1869 1997); John Stuart Mill, ‘Letter to Isabella Beecher Hooker, September 14, 1869’, Later Letters, Collected Works, 17, 1640; John Stuart Mill, ‘Letter to Princess Marie Stcherbatov and Associates, December 18 1868’, Later Letters, Collected Works, 17, 1528; Okin, above n 74, 227-237.} have found voice in their more contemporary counterparts. More recent philosophers who have contributed to essentialising gender and parenting roles include Erikson,\footnote{Erikson, described by Okin (above n 74, 241) as the modern Rousseau in his ideology of women, asserts that women’s entire identity and life necessarily revolves around her ‘inner space’ (womb) and its desire to be filled: Erik Erikson, ‘Inner and Outer Space: Reflections on Womanhood’ (1964) 93(2) Daedalus 582, 596-605.}\footnote{Bruno Bettelheim, ‘The Commitment required of a woman entering a scientific profession in present day American society’ in Mattfeld, J and C Van Aken, Woman and the Scientific Professions, The MIT Symposium on American Women in Science and Engineering (Cambridge, 1965), 15.} Bettelheim\footnote{Talcott Parsons and Robert Bales, Family, Socialization and Interaction Process (Routledge and Kegan Paul Limited, 1956), 22, 23.} and Parsons.\footnote{Talcott Parsons and Robert Bales, Family, Socialization and Interaction Process (Routledge and Kegan Paul Limited, 1956), 22, 23.}

In the modern era, the role of the philosopher has been complimented by the plethora of ‘expert’ advice-givers on areas such as child development and mothering, including some
psychoanalytical theorists and ‘childcare experts’. Birns and Hay note:

The image of mother and child pervades Western culture – from Michelangelo to Kollwitz, from Sophocles to Virginia Woolf, and from Locke to Freud. For centuries, mothers have been portrayed in extremes: the ‘good’ mother, like a Madonna, is pale, serious, but gentle; the ‘bad’ mother is big, ugly, and wicked. These images of motherhood can influence how women provide for their children and how they feel about themselves.

The empirical findings of this research highlight the inflexibility and artificiality of mainstream attitudes towards work and parenting. These findings are relevant in the context of the theoretical literature pertaining to the discursive shift towards ‘intensive’ parenting, especially mothering, in Australia. It is only in recent decades in wealthy western countries that mothering

117 In the late 19th century, there was a growth of scientific interest in the mind of the child, with psychologists, led by Freud, commencing to study the effects of childhood experiences on adult personality. Psychoanalytic theory was born, and has had a profound influence on contemporary thought about human relationships, particularly those between mother and child: Beverly Birns and Dale Hay (eds) The Different Faces of Motherhood (Plenum Press, 1998), 48. The fascination with child psychology flourished throughout the 20th century, with the importance of early childhood experience explored and validated: Grille, above n 38, 70. One result of this was the elevation of motherhood to a vocation: Janet Reed, Kathy Oakes, Rosemary Auchmuty, et al, in Curthoys, Eade and Spearritt, above n 27, 154. Freud’s theories were used by further psychoanalytical theory in the latter half of the 20th century to model a view of motherhood as one where the mother provides exclusive, at-home care of her children: Birns and Hay, above n 117, 6-7. His work was built upon by Melanie Klein, a co-founder of object relations theory within psychoanalytic psychology. See: Melanie Klein, The Writings of Melanie Klein, Volume 1: Love, Guilt and Reparation: And Other Works 1921-1945 (Hogarth Press, 1975); Melanie Klein, The Writings of Melanie Klein, Volume 2: The Psychoanalysis of Children (Hogarth Press, 1975); Melanie Klein, The Writings of Melanie Klein, Volume 3: Envy and Gratitude (Hogarth Press, 1975); Melanie Klein, The Writings of Melanie Klein, Volume 4: Narrative of a Child Analysis (Hogarth Press, 1975).

118 In the early part of the 20th century, key experts were Holt, King and Watson, whose views and recommendations are now considered dated: Hewlett, above n 25, 210. During the 1930s, the generic advice was for mothers to maintain distance from their children and to ensure children were not smothered with mother love. A decade later, this advice was neatly reversed: Hewlett, above n 25, 212. Spock, who remains the most widely read Australian expert, published a 666 page guide, Baby and Child Care, in which it was declared that the children of working mothers may grow up neglected and maladjusted, with the advice that, unless it be absolutely necessary, it is senseless for a mother to ‘pay other people to do a poorer job of bringing up [her] children’: Hewlett, above n 25, 221-222. Brazelton, Fraiberg and White concurred with Spock in their assessment of the damage of non-maternal care for young children: Hewlett, above n 25, 222. Led by Freud and Piaget, mothers were vested with complete responsibility for the psychological and cognitive development and potential of their children: Hewlett, above n 25, 207. In the later part of the 20th century, there was a shift from a ‘scientific’ to ‘natural’ model of the ‘good mother’: Caine, above n 44, 225-227. Interest in maternal-infant bonding and attachment was prioritized: Caine, above n 44, 225-227. In eighteenth century Europe, the forces of medicine and philanthropy combined to create an intense focus on the preservation, education and nurturing of children in response to high rates of infanticide, abandonment of children and infant mortality, which significantly impacted upon conceptions of motherhood: Jacques Donzelot, The Policing of Families (Pantheon Books, 1979), 9 - 21. The role of women as mothers was accordingly privileged as their most important vocation. Such typecasting was largely imported into Australia at the time of settlement.

119 Birns and Hay, above n 117, 47.
has, in itself, been considered a full-time occupation\(^\text{120}\) that is exclusive of paid work.\(^\text{121}\) This has been heralded by the recent development of the ideology of motherhood.\(^\text{122}\) The ideology of motherhood\(^\text{123}\) makes claims about what mothers are like and what they should be like, often conflating the two; a call for maternal care is grounded on the supposed ‘natural capacities’ of women for empathy and self-sacrifice,\(^\text{124}\) without hearing the mothers’ perspectives.\(^\text{125}\) Mullin notes that the ideology of motherhood is committed to the view that mothers are responsible for meeting all of the needs of their young children, that mothering work is to occur in the home and that mothers and young children are ‘necessary and sufficient’ for the happiness of

\(^{120}\)Gambles, Lewis and Rapoport, above n 37, document that correlating the emergence of modern domestic appliances that made housekeeping less time-consuming was the rise in the intensity of mothering, with Bowlby’s work influencing increased attention to maternal-child attachment and the creation of a nurturing, safe and loving environment for children.

\(^{121}\)Tracey Reynolds, ‘Black mothering, paid work and identity’ (2001) 24(6) Ethnic and Racial Studies 1046; Mullin, above n 100, 121; Angela Jean Hattery, Women, Work, and Family: Balancing and Weaving (Sage, 2000). The extensive literature on the meaning of motherhood and the role of mothers has spanned rejection of mothering as a valid role (Feminists including Firestone, Allen and Card called for the evacuation of motherhood and elimination of the biological family: Mullin, above n 100, 119-120); recognition of the value of mothering to society (Caine, above n 44, 228; Rich, above 47); and glorification of mothering as showcasing women’s strength, skills and uniqueness (this position was supported by feminists including Vaier, Hill Collins, Held, Ruddick and Willet: Mullin, above n 100, 119-120).

\(^{122}\)This is also called ‘essential motherhood’ (Patrice DiQuinzio, The Impossibility of Motherhood: Feminism, Individualism and the Problem of Mothering (Routledge, 1999), 10); ‘exclusive motherhood’ (Linda Blum, At the Breast: Ideologist of Breastfeeding and Motherhood in the Contemporary United States (Beacon, 1999)) and ‘privatized motherhood’ (Bonnie Fox and Diana Worts, ‘Revisiting the Critique of Medicalized Childbirth: A Contribution to the Sociology of Birth’ (1999) 13(3) Gender and Society 326). Lyn Richards, ‘The Ideology of the Family: Women, Family and Ideology in Three Australian Contexts’, in Hughes, above n 2, 92 notes: ‘There is nothing new about the discovery that motherhood has all the characteristics of an ideology’.

\(^{123}\)This ideology blossomed in Australia in the 1950s, working in conjunction with the male-breadwinner family norm to deem the ideal feminine role that of full-time mother and homemaker. There was an embarrassment of the responsibilities that mothering entailed, a privileging of ‘ultra-domesticity’ and a scorn for women working, particularly in career-oriented positions: John Murphy & Belinda Probert, ‘Never Done: The Working Mothers of the 1950s’, in Grimshaw, Murphy and Probert, above n 3, 133, 134-135; Hewlett, above n 25, 15, 181-184; Jodie Beneveniste, Woman, work, child: Women talk about balancing work and family (Simon & Schuster, 1998), 14. This ideology was practically reinforced by institutional barriers such as the marriage bar, an absence of childcare, a scarcity of part-time work, inflexible working conditions, unequal pay, discouragement of female education, limited opportunities for females to engage in interesting and challenging jobs and wide-spread social disapproval of women working: John Murphy & Belinda Probert, ‘Never Done: The Working Mothers of the 1950s’, in Grimshaw, Murphy and Probert, above n 3, 133, 134-135. Note, however, the findings of Murphy and Probert’s qualitative research into the recollections of women who had been mothers in the 1950s, which showed that many women did in fact engage in paid work, with official census statistics recording one in five women working in 1961: John Murphy & Belinda Probert, ‘Never Done: The Working Mothers of the 1950s’, in Grimshaw, Murphy and Probert, above n 3, 133, 150.

\(^{124}\)Mullin, above n 100, 120, drawing on the work of DiQuinzio, above n 122, xiii.

\(^{125}\)Chris Everingham, ‘Motherhood’ in Caine, above n 44, 230.
each other. It informs the expectation that one parent, usually the mother, should be continuously available to an infant, in her home, with her child her sole stimulus and singular outlet for her creative and intellectual energy. Berns cautions that recognition of the value and validity of caring and nurturing roles, which are traditionally feminine, must not be a basis for arguing that ‘a just community can only be attained if a majority of women confine themselves to caring and nurturing roles’.

Paradoxically, co-existing alongside the ideology of motherhood is another value system that places scant regard on parenting work. The literature documents that there is also presently a strong ‘culture of anti-motherhood’, which is attributed to the focus on ‘controlling’ fertility, rather than on birth, and reflective of ‘a broader disregard for motherhood’. It results in societal hostility to mothers and children and a vacuum of necessary supports for mothers. Cross-cultural research shows us that the documented isolation and loneliness of full-time mothering in Australian society, with its high incidence of post-natal depression, is not inevitable; in societies where mothering is celebrated and respected, and mothers are integrated into public life, there is pride and delight in being a full-time mother.

**Understanding the impact of legal and regulatory power**

The law also shapes and normalizes particular gender roles in work and parenting at any point in time. Chapman states:

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126 Mullin, above n 100, 120-121.
128 Berns, above n 28, 55.
130 Australian sociologist Karen Reiger, cited in Dux and Simic, above n 104, 111.
131 Hewlett, above n 25, 328-9; Kitzinger, above n 29, 5, 14-15.
132 Richards, above n 122, 95.
134 The legal regime is but one limb of the myriad of institutional and social arrangements which shape labour markets and regulate employment and work relations. Other key influences are welfare arrangements, tax regimes, education systems, trade unions and collective bargains and custom: Fudge and Owens, above n 11, 17.
135 Chapman, above n 1, 454-455.
The work and family debate in Australia often seems to assume that work and family are naturally separate, though interlocking spheres of life with pre-existing meanings and that labour law merely acts on the family sphere by bringing some aspects of family life (in certain closely defined circumstances) into labour market considerations in a way that benefits employees. In this sense, work and family literature has to date largely failed to interrogate how the regulatory regime of labour law itself reinforces, perpetuates and reproduces certain normative ideals of work and family interaction and through this produces a normative workplace vision of family.

The metaphor of ‘regulatory space’ articulated by Hancher and Moran, as developed by Freeman and Rossi, is a useful framework for understanding the complexity of the impact of the law and regulatory factors at the interface of work and parenting. From this perspective, the dominant role of the law cannot be comprehended purely in terms of legislation and case law, but must be understood within the context of the many organisational and public policy factors that share regulatory space and thus impact upon the efficacy of the translation of the law into practice. This is not uni-directional as the law itself is, in turn, the outcome of a myriad of influences and power plays dispersed amongst different actors (such as different state and non-state bodies, organisations, intellectuals and individual political entrepreneurs). As Hancher and Moran recognise, organizations are the most important actors in the regulatory process, with large firms attaining the status of ‘governing institutions’. Their power lies not only in that they dictate how things are to be done, but also in the creation of beliefs about what is possible. Williams is of a similar view, emphasising that while the family has traditionally been attributed with responsibility for the construction and perpetuation of gender norms, which are perceived to then filter into workplace norms, it is workplace culture, norms and practices that primarily dictate the construction of gender roles, such as the unencumbered worker.

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139 Hancher and Moran, above n 136, 274-5.
140 Ibid 288.
141 Joan Williams, Reshaping the Work-Family Debate: Why Men and Class Matter (Harvard University Press, 2010), 2.
The relevance of these socio-legal insights in the present context is that parent-only carers in their interface with work are not only dealing with legal regulation, which is itself fragmented and contradictory, but just as importantly with a multiplicity of other regulatory processes embedded within the labour market. Power is at the heart of this process and is a very real factor in determining choice and lack of choice for parent-only carers. Hancher and Moran argue that power is influenced by a number of variables including law and legal culture, political culture and attitudes, place, time and organizational structure. In understanding where power lies in regulation, they emphasise the importance of evaluating relations not only between those who are have power, but also those excluded from the political process. They posit institutional procedure, rather than individual choice and autonomy, as the main determinant of ‘who is in, and who is out’ of regulatory space. In terms of ‘who is out’ (thus lacking power and a voice in political process), this chapter argues that parent-only carers are a marginalised group who fall outside regulatory space.

**The current (separate) state of the work and family realms in Australia**

A review of the contemporary industrial and labour law literature establishes that the dominance of the separate spheres ideology has perpetuated notwithstanding changing socio-demographic norms and significant technological advancement. Despite that it is a relatively recent phenomenon, the decisive separation of work and family in Australian society is engrained and normalized as part of the status quo. As Williams notes, ‘we still have a workplace perfectly designed for the workforce of the 1960s... [a]ssumptions drawn from separate spheres continue to frame today’s debates about gender, work and family’. This is so notwithstanding the increasing diversity of household compositions. Pocock notes:

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142 Hancher and Moran, above n 136, 277-278.
143 Ibid.
144 Williams, above n 141, 1, 5.
146 Pocock, above n 69, 28.
The evolution of the household shows how, at any moment in time, particular public policy, technical design, social norms and economic factors make certain living forms not only possible but dominant. They seem right in that context. However, this context and the institutions within it evolve over time.

The notion of the committed worker, divorced from the reality of the person and family life he/she actually inhabits, has been variously termed the ‘ideal worker’, the ‘unencumbered citizen’ and the ‘care-free male worker’. Irrespective of terminology, the key characteristics of the unencumbered worker are that ‘he’ works full-time during the now outdated ‘normal’ business hours of 9am to 5pm, is available to work overtime whenever required, is mobile and flexible, takes little or no time out of ‘his’ career for childbearing or raising and is devoid of caring, domestic and interpersonal obligations and responsibilities. Coote et al. aptly state:

The idea of a ‘normal’ job as a contract of paid employment for a nine-to-five, five-day week (or more) has a heavy grip on us all. But it doesn’t reflect the way most people live their lives, which is infinitely more varied. It doesn’t begin to convey the great diversity of hours worked for payment between and within different groups – not least between women and men. Formal structures and social expectations are at odds with lived experience.

As noted by some of the research participants, workers are often valued on the basis of their time commitment, rather than their actual productivity, with the esteemed workers those who are physically present in the office for the longest hours. Indeed, some commentators believe that the unencumbered worker is expected to be devoid of humanity and emotion. This definition of the worker silences and excludes the vast numbers of workers unable or unwilling

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148 Berns, above n 2.

149 Barbara Pocock, ‘Australian Mothers in 2004: Awaiting a Decent Work/Care Regime’ in Grimshaw, Murphy and Probert, above n 3, 17. The term ‘unencumbered worker’ is preferred in this thesis.

150 In Australia, 38 hours is prescribed as the current maximum weekly hours of work for full-time employers, with such ‘additional hours’ permissible provided they are ‘reasonable’: National Employment Standards, see Part 2-2 of the *Fair Work Act 2009* (Cth). Section 61 prescribes the National Employment Standards (NES) as the minimum standards applying to employment of all Commonwealth employees. Section 62 prescribes 38 hours as the standard for full-time employees.


to duplicate the model of the male breadwinner as a consequence of their caring responsibilities. At present, women overwhelmingly populate the pool of ‘encumbered’, ‘non-ideal’ workers.

Moulding the stereotype of the ‘modern’ nuclear family on the male breadwinner family structure has had profound repercussions for parents. This conception of the worker as the head of the male breadwinner family has developed into a mindset that endures where this structure of the family no longer predominates. Owens notes that, while the equal pay decisions of the 1970s predominantly put to rest the rhetoric of the worker as a breadwinner, the associated ideology ‘remains strong and continues to be incorporated into decisions of [industrial] commissions and hence the very structure of the workplace’. Smith and Williams both agree, arguing that while the unencumbered worker is no longer the normative worker, the ‘good jobs’ still go to those who fit this mould. The gender norms associated with the breadwinner as an unencumbered worker remain embedded in the culture, practices and expectations of workplaces. This is so notwithstanding that in recent times, the social norm of the breadwinner family has been surpassed by a dual-income family model, comprised of a full-time male worker and a part-time female worker. In the literature, reference has recently been made to a new ‘gender contract’ between a full-time male worker and part-time female worker. While some writers speak of a new ‘adult worker family model’, where both parents...
pool their financial resources gained by working to support their children,\textsuperscript{160} Owens et al note that the increase in women’s paid work responsibilities has not altered the primary responsibility of women for domestic work.\textsuperscript{161} Further, law and policy has lagged behind social circumstance in this regard; as Probert notes, Australia is in a policy ‘mess’ with respect to the issue of mothers working, with contradictory taxation and family benefit policies and incentives.\textsuperscript{162}

Broomhill and Sharp note the impact of neoliberal restructuring within the labour market in fundamentally altering the ‘class, gender and social structures and arrangements that underpinned the male breadwinner model’.\textsuperscript{163} In particular, they posit the significant increase in female labour force participation and declining male participation and the rise of the dual breadwinner household. They conclude:\textsuperscript{164}

The male breadwinner model remains an important but less dominant component of this more complex gender order. However, the cultural and ideological dimensions of the traditional male breadwinner model remain influential within both the public spheres of the labour market and public policy and in gender relations within the private sphere of the household.

The enduring influence of the breadwinner model has been profound – it remains the ‘unspoken given’ in political and economic theorizing and continues to have a significant impact on the ways in which roles are constructed: as men and women, mothers and fathers, workers and citizens.\textsuperscript{165} Berns’ conclusion that ‘Australia remains committed to a form of strong male breadwinner policy...’ remains apt.\textsuperscript{166}

Breadwinner ideology still significantly informs work discourse,\textsuperscript{167} and it is still predominantly men that fill the unencumbered worker role. This is so notwithstanding that higher female education levels, delayed marriage, contraception, drives for gender equality, smaller families

\begin{itemize}
\item Owens, Riley and Murray, above n 159, 207.
\item Belinda Probert, ‘Introduction’ in Grimshaw, Murphy and Probert, above n 3, 1, 6.
\item Broomhill and Sharp, above n 158, 18.
\item Ibid 18-19.
\item Berns, above n 2, 1-2.
\item Ibid 186.
\item Houston, above n 145, 181.
\end{itemize}
and later child-bearing has all facilitated women’s positioning within the workforce. As Probert states, ‘[t]he fundamentally gendered behaviour implied by the male breadwinner/female carer household model remains remarkably constant despite changes in attitudes and opportunities’. This is consistent with the demographics of the research participants, both in terms of the participants being exclusively female, and the reasons expressed by some participants as to why they, and not their partner, provided parent-only care for their child through primary parenting.

Coupled with the perpetuation of the male breadwinner model has been an accentuation of some of the hallmarks of this worker. The demands made by the workforce have continually increased, as Birch states: ‘[i]n organizations in Australia, and elsewhere in the developed world, people are working longer and harder than ever before’. Over the past two decades, the hours worked by full-time workers have steadily increased. Australian Bureau of Statistics’ data documents that 36.8 per cent of Australians work overtime, 48 per cent of whom are not paid for it. The demands and invasiveness of paid work have increased, to the extent that Pocock and Standing both speak of the ‘fetish of paid work’. Pocock explains:

> Paid work has taken on a sacred centrality in social, political, economic and personal life in many countries over the past century and a half... Work takes up more of our time, it constructs our identity, and much of our non-work status is shaped by the nature and demands of our work. ‘Work’ and a job (or its absence) shape status.

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168 Belinda Probert, ‘Introduction’ in Grimshaw, Murphy and Probert, above n 3, 1, 4.
170 Note that other considerations, in particular breastfeeding, were also relevant, as discussed in Chapter 3.
173 ABS Cat. No 6342.0 November 2006.
174 Gambles, Lewis and Rapoport, above n 37, 4.
175 Pocock, above n 69, 47.
176 Guy Standing, Beyond Paternalism: Basic Security as Equality (Verson, 2002).
177 Pocock, above n 69, 47.
Of the OECD nations, Australians presently work the longest hours. A significant portion of Australians work longer hours than they would like. Work performance is frequently measured in terms of hours worked, rather than outcomes. The terms of engagement for professional and managerial workers generally require the worker to work ‘reasonable’ hours, without stipulating set working hours, and the standard for what constitutes a reasonable time commitment is ever increasing.

Jacobs and Gerson aptly note: ‘working time has become a proxy for work commitment’. Some commentators argue that the long hours of work norm that pervades the history and culture of the Australian labour market is such that even the institution of statutory standards on working time are largely ineffective in heralding change. Gambles et al contend that, despite the potential for greater work/family harmony offered by technological advancement, the dominance of work has increased for many people. While technological development offers an increased scope for working outside the physical parameters of the office and is thus able to overcome some of the pragmatic problems associated with separate spheres ideology, it also can allow for a greater intrusion of work into the personal domain. Through technological innovations, some workers are in the position of being perpetually ‘on call’ and this can have a significant impact if appropriate boundaries are not established and respected. The effects for overburdened workers are significant, and include adverse health

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178 Australia is an OECD outlier in the proportion of men who are working very long hours. Over 20% of employed men in Australia and the US work more than 50 hours per week: Jerry Jacobs and Kathleen Gerson, ‘Who Are the Overworked Americans?’ (1998) 56 Review of Social Economics 442, 449; Smith, above n 18, 697.
179 Broomhill and Sharp document that over 32 percent of female full-time workers and 28 percent of male full-time workers see themselves as working more hours than they would prefer: Broomhill and Sharp, above n 158.
180 Williams, above n 147, 73; Karen Mitchell, Careers and Motherhood Challenges and Choices: How to successfully manage your career through pregnancy, birth and motherhood (McGraw-Hill Australia, 2004), 166.
182 Jacobs and Gerson, above n 10, 181.
183 Barbara Pocock, ‘Work Life “Balance” in Australia: Limited progress, dim prospects’ (2005) 43(2) 198, 200; Creighton and Stewart, above n 181, 380. Section 62(1) of the Fair Work Act 2009 (Cth) prohibits an employer from requesting or requiring a full-time employee to work more than 38 hours in a week, unless the additional hours are ‘reasonable’; by section 62(2) the employee has a positive right to refuse to work additional hours ‘if they are unreasonable.
184 Gambles, Lewis and Rapoport, above n 37, 48.
185 In particular, the advent of smartphones, ipads and Skype have been significant.
186 For a contrasting view, however, see Judy Wajcman, Michael Bittman and Judith E. Brown, ‘Families without Borders: Mobile Phones, Connectedness and Work-Home Divisions’ (2008) 42(4) Sociology 635, whose research
impacts on the worker. There are also broader community effects associated with long work hours.

The effects of the increasing ‘long hours of work’ culture are two-fold for mothers: women are forced to compete with men for jobs in a labour market in which the time expectations are heightened, and from which many are thus excluded as a consequence of their caring responsibilities; and the absence of male workers from the household for long periods increases the child- and house-care load. Those who work full-time but without the substantial overtime required in many industries work in the shadow of the unencumbered worker, and are thus relegated to the ‘mummy’ or ‘daddy’ track. Noting that most women seek work that does not require emulation of the unencumbered worker, Williams states:

If a significant sector of the economy [female dominated professions] already accommodates people in women’s social position, why not declare victory and go home? The reason is that women pay a steep price for jobs not framed around masculine norms.

Greenwood notes: ‘left to their own devices, markets will demand as much time as employees are willing to give to the job, and competition will assure that standard time demands usually will be set by the least encumbered’. Hochschild argues that it is a no-win situation for mothers; they either pay a cost by remaining outside mainstream social life, or they pay a cost by maintaining a career moulded around the image of the unencumbered worker and thus

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http://www.ucl.ac.uk/whitehallII/findings/Whitehallbooklet.pdf.

188 See for example, Fear and Denniss, above n 187, 6-7.

189 Williams, above n 147, 2.

190 Ibid 83.

permitting little time or emotional energy for anything else.\textsuperscript{192} Gambles et al similarly argue that time and energy for relationships and the giving and receipt of care are crucial for individual and societal well-being, yet are increasingly challenged by current work patterns. Alternatively, those with demanding care responsibilities are excluded from paid work.\textsuperscript{193}

Consistent with male breadwinner ideology, domestic work has historically not been recognized as work. The International Labour Organisation traditionally took a restricted view of what constitutes ‘work’, limiting it to work that is remunerated.\textsuperscript{194} By this definition, the vast majority of work performed by women was not classified as work. More recently, the ILO has taken a more expansive view of what constitutes work, as illustrated by its development of a normative ideal of ‘decent work’.\textsuperscript{195}

This vision is encouraging, as are the accompanying initiatives. In recent years, the ILO has introduced a number of initiatives designed to mainstream the concept of decent work.\textsuperscript{196} However, the translation of the ILO’s decent work agenda is yet to translate into policy and practice in the western world.\textsuperscript{197} Thus, the practical implications of this agenda in terms of the Australian labour market are yet to be seen.

Understanding the socio-politically constructed nature of work and parenting roles that have resulted in significantly different norms at different points in recent history illustrates the impact of the different factors (particularly capitalism and consumerism and feminist and expert discourse) on the contingency of the work-family matrix and therefore the potential for

\textsuperscript{192} Arlie Russell Hochschild, \textit{The Second Shift} (Avon Books, 1997), x.
\textsuperscript{193} Gambles, Lewis and Rapoport, above n 37, 53.
\textsuperscript{194} International Labour Organization (ILO), \textit{Resolutions Concerning Economically Active Population, Employment, Unemployment and Underemployment Adopted by the 13th International Conference of Labour Statisticians, October 1982, [9].}
\textsuperscript{195} See Chapter 8, pp 236-7 for a further comprehensive discussion of this issue.
\textsuperscript{196} For example, the ILO’s commitment to decent work was reaffirmed in 2006 when the UN Economic and Social Council (ECOSOC) adopted a ministerial declaration recognizing decent work as essential for achieving the Millennium Development Goals (MDGs), a fair globalization and poverty reduction. The declaration called on the UN system to support countries in their efforts to include the ILO’s Decent Work Agenda in their development policies. See the ILO’s website: \url{http://www.ilo.org/integration/themes/dw_mainstreaming/lang--en/index.htm}, accessed 14 September 2013.
\textsuperscript{197} Australia is not one of the countries on which the ILO has focused to date: \url{http://www.ilo.org/integration/themes/mdw/lang--en/index.htm}, accessed 14 September 2013.
change, which will now briefly be discussed.

The potential for change

‘... there is nothing necessary or inevitable about the way business conducts itself: with all the power in the world, big business has a choice. If the chief executives of the Fortune 500 companies decided tomorrow that they wanted to reduce the hours of the standard working week, in a few months’ time, the wheels would be in motion. Anything can change, and does, if those with power want to change it. The question is are parents, and those who want to become them, powerful enough, and united enough, to convince the powers that be that the time has come for such a change?198

This chapter has argued that the separation of the spheres of work and family is a contingent, socio-politically constructed framework that is open to change and should be the subject of intelligent critique. By understanding the socially constructed nature of the present hegemonic social organisation in which notions of mother and worker are normalized, it is apparent that present arrangements are not fixed and impenetrable but are rather fluid and contingent constructs open to change. This is particularly relevant in the context of the findings of this research study on the desirability of change towards the integration of work and parenting. Palmer asserts:199

Everyone believes that their environment is the normal one. In fact industrialized society is so new and so rapidly changing that it is distinctly abnormal when viewed across the panorama of human experience. In much of the world, women do not perceive a contradiction or conflict between their economic participation and their childrearing, even though colonialism and ‘development’ has done its best to change things.

The different factors that influence the socio-political construction of notions of work and parenting depend on the economic and power base at any time and therefore fluctuate. Foucault’s analysis in The Order of Things,200 wherein he contends that the discourses of life, labour and language – which are generally viewed as dealing with universals of human social life and therefore progressing logically and refining themselves in the course of history –

198 Lesley Cannold, What, No Baby? Why Women are Losing the Freedom to Mother, and How They Can Get it Back (Curtin University Books, 2005), 305.
199 Palmer, above n 26, 184.
changed abruptly at several junctures, displaying a conceptual discontinuity from the disciplines that had immediately preceded them, provides a good analogy. Curthoys’ statement, made in the context of arguing for sex and age desegregation, is very apt for present considerations.\footnote{Curthoys, Eade and Spearritt, above n 27, 88.}

Our task … will be easier if we understand just how unnecessary, damaging, and historically specific is our present organization of human labour. The situation of man-breadwinner and woman-childcarer/housewife is not a ‘natural’, inevitable, or permanent one. Only childbearing is inevitably the province of women: the rest is what human society makes it.

\textbf{Coote et al. notes:}\footnote{Coote, Franklin and Simms, above n 151, 32.}

We tend to think that social norms are deeply entrenched and very hard to shift, but there are plenty of examples of attitudes changing dramatically over the course of just a few years. Examples include ending the slave trade and slavery, giving votes to women, passing laws enforcing equal pay and opportunity, wearing crash helmets and seatbelts, corresponding by email, using mobile phones, not smoking in bars and restaurants, and seeing global warming as a serious man-made threat to the planet. They also include eating processed foods, seeing unfettered global markets and escalating growth as the key to human prosperity, and having television as the main source of family entertainment. In each case, the weight of public opinion shifted quite suddenly from one end of the spectrum (outrage, antipathy or indifference) to the other (acceptance, approval, staunch support), and reversing the change soon became inconceivable.

While the legal analysis in Chapters 8 and 9 will show that significant politico-legal reform is needed to move away from the separate spheres model towards the integration of parenting and work, this is not enough. As emphasised above, the law does not stand alone but must be conceptualised within the multiplicity of power relationships that operate within regulatory space. Substantial reformation in societal and workplace cultural attitudes to work and parenting are critical. Indeed, Scott contends that the metaphor of regulatory space can be extended and utilized as a basis for institutional design and reform.\footnote{Scott, above n 138, 329-330.} In Chapter 10, some suggestions towards the integration of parent-only care and work are proposed. In seeking to implement these measures, it is helpful to understand the potential for regulatory theory to offer a more innovative approach than that currently taken.

Smith notes that, with the power of the law in ‘reflecting, constituting and reinforcing
assumptions’ about the unencumbered worker and the separate spheres model comes the power to challenge and reshape such assumptions. She similarly recognizes the role of the law in perpetuating, and also challenging, exclusionary working time norms. Smith acknowledges the limits of legislating to mandate such change, but argues that entrenched practices that perpetuate these norms can be challenged and room made for the development of alternatives by labour law and by anti-discrimination and equality law. Hunter argues along similar lines, yet concludes that it is difficult for the law to challenge norms perpetuated by the labour market and the gendered practices in paid employment and the home. This is particularly so given that, as Chapter 9 argues, the legal culture is constructed from the experience of the dominant, powerful perspective and thus perpetuates the marginalization of disempowered groups, notably mothers. Gambles et al argue that, while effective policies are a necessary foundation, policies alone are insufficient.

It is critical to confront the dearth between policy and behaviour and in this lies the principal challenge: altering attitudes, values, mindsets, beliefs and expectations of individuals, families, organizations, communities and societies. Gambles et al acknowledge that the development of innovative approaches addressing multiple and interacting levels ‘is a huge challenge. It involves questioning many accepted wisdoms about how society works and how people should behave’. However, as will be outlined in Chapter 10, to do so is both desirable and achievable.

Conclusion

This chapter has presented the empirical findings on the notional and physical separation of

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206 Smith, above n 18, 704.
207 Rosemary Hunter, ‘The legal production of precarious work’ in Fudge and Owens, above n 11, 283.
208 Owens, above n 92, 426.
209 Gambles, Lewis and Rapoport, above n 37, 39.
210 Ibid xi-xiv.
211 Ibid 87.
work and parenting. These findings have been set within an historical perspective of the rise of the separate spheres ideology and its continued dominance in Australian society. The chapter has outlined findings on key facets of the separate spheres ideology, including the privileging of a male breadwinner model consisting of an unencumbered worker and a domestic support worker. The research findings on the artificiality of the presumed inevitability of the separate spheres model have been explored through a multi-disciplinary approach to the theoretical and reflective literature.

There is a wealth of theoretical literature which canvasses the different features of separate spheres ideology and the forces that create and sustain its dominance. However, this research makes an innovative contribution to the development of theoretical research by casting a new light on the extant theoretical work. This chapter examined the existing literature through a new lens and brought research from a diversity of different disciplines together to explain the socially constructed and contingent nature of the current hegemonic work and family matrix. This chapter argued that work and parenting patterns, and the ways they shift and change over time, are socio-politically constructed and contingent. Work and parenting norms are influenced by historical, sociological, philosophical, ideological, legal and regulatory factors, including the discourses of capitalism and consumerism, paternalistic conservatism, fundamentalist religion, feminist discourse, philosophical and expert opinion and legal and regulatory power.

At the core of the argument made by this thesis is that the separate spheres ideology remains dominant in contemporary Australian culture and that this is problematic. As Smith states: 212

As long as workplace practices and cultures marginalize or exclude those workers who also have caring responsibilities, and idealise the unencumbered worker, the traditional male model will remain the norm, women will be denied equality with men and both the quality and quantity of unpaid caring work will be threatened.

The next chapter will consider the issue of choice. This is a pivotal issue in that the notion of choice underpins the current politico-legal framework. Discussions with respect to choice, or

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212 Smith, above n 18, 730.
lack of choice, to work formed a significant part of the discussion in the individual interviews and the focus group. The next chapter will present these findings, contextualised against the relevant literature. The chapter will then consider the role of the rhetoric of choice in masking the ingrained and systemic nature of the lack of choice that arises at the work-parenting interface.
Chapter 7: Choice – the rhetoric and the reality

Introduction

The preceding chapter has argued that work and parenting norms, and their inter-relationship in terms of separate spheres ideology, are the construct of disparate social, political, legal and regulatory influences. Some of the relevant factors that impact on work and parenting norms include historical and sociological factors, including industrialism; the discourses of capitalism and consumerism, paternalistic conservatism and fundamentalist religion; feminist discourse and philosophical and expert opinion; and legal and regulatory power. Given their constructed and contingent nature, the previous chapter argued that these norms are open to change.

This chapter examines the issue of choice and considers the impact of parent-only care on work choice. It presents the findings of the empirical research on the participants’ perceptions on the choice afforded to parent-only carers with respect to work. As the findings show, a significant majority of parent-only carers perceived that they lack choice both at the point of entry to and within the labour market. Choice to work was reported by a minority of participants, yet this strongly correlated to the level of education, socio-economic status and work and family support network of the parent, and is therefore important as an equality issue.

The chapter then engages with the literature on the rhetoric of choice and argues that the rhetoric of choice is really a means of camouflaging as an individual problem the collective inherent lack of power and choice afforded to parent-only carers. The chapter contends that the rhetoric of choice has stymied challenge to the marginalisation of parent-only carers vis-à-vis work, as it masks the systemic, ingrained nature of the problems created by separate spheres ideology, which require a collective response.
Research findings

‘There’s no choice, there’s nothing’ – the lack of work choices for parent-only carers at the point of entry to the labour market

The issue of choice was explored with research participants to understand their perspectives. Participants were asked whether they considered they had real choice to participate in the labour market while providing parent-only care and, if they considered that choice was restricted, the factors that constrained or enabled that choice. A significant majority of research participants considered that the way in which the labour market presently operates structurally discriminates against parent-only carers. Without trivializing the difficulties faced by all parents of young children who work, parent-only carers of young children perceive that their desire to integrate work and parenting is not presently accorded any support, by legislation, government policies or workplace culture or practice, and they are thus marginalized in the workforce to a more significant degree than parents who do not provide parent-only care.

The perceived lack of work choices accorded to parent-only carers was noted both by the majority of individual interview and focus group participants. As one participant simply expressed, in a statement resonant of many other participants’ views: ‘No. There’s no choice, there’s nothing’ (P19). Another participant similarly opined: ‘I don’t think I have a choice’ (FGP2). A further participant emphasized: ‘I don’t really have choice... I don’t have a choice’ (P6). Another participant explained: ‘I feel my options are very limited... That’s where you get frustrated, because you do want to contribute and earn money... and there is nothing’ (P3).

Another participant explained: ‘it is difficult [to try to find work that accommodates parent-only care] and I certainly don’t have the answers but I’d just like to get that opinion out there that it is hard’ (P3). A further participant had experienced a brief period following maternity leave where her employer had enabled her to work hours that suited her and her shift-parenting partner, yet had been advised that this arrangement was untenable long-term and that an increase in her hours was required. She explained how this action by her employer took away her choice to continue to work set shifts that enabled her to share parent-only care of her
toddler with her partner, concluding: ‘what I will probably end up doing is leaving. Because [child] has to come first. So really I don’t have a choice. I have to leave my job’ (P16).

Some of the research participants reported that they had experienced overt discrimination, in the form of a concrete demotion, following the birth of their child. As one participant explained, in the context of recounting her attempt to negotiate to return to her previous employment following a period of unpaid maternity leave: ‘I was offered part-time but in a different job, a lower level. I still don’t know if that’s quite above-board or not’ (P1). Another participant explained:

[If I wanted to be part-time] I probably would [have to take a step down]. I would still have a job at the school, but I wouldn’t be able to have [name of present position participant was currently on maternity leave from] if I went back part-time. (P5)

Another participant explained that after having her first child she was offered a position which was a significant demotion from her previous role:

I wasn’t up in management, but I was at a good level and then you’ve got to go to a job that’s sorting mail or sitting at reception [and] you think: ‘well, why do you have to get down-graded to stay in the workforce?’ (P3)

Many participants expressed the belief that parent-only caring is not structurally supported in Australia and therefore the work choices available to such parents are very limited. Participants reported a high degree of dissatisfaction with the lack of choice available for parent-only carers to work. Many participants stated that there is a significant gap in the recognition, support and resources accorded to parent-only carers who also work. As a result, some participants perceived that the work choices of most parent-only carers are marginalized. As some participants noted, economic pressures can preclude parents from providing parent-only care, with many forced to work in a role that requires them to outsource the care of their young child in order to afford the basic costs of living. Indeed, this was the experience of some of the research participants.

For others, parent-only care was an option, but an exclusive one that was only available by virtue of being independently financially supported. This sub-group of affluent participants
expressed dissatisfaction with their inability to attain or continue appropriate employment as a consequence of their parent-only caring role, yet were cognisant of their perceived good fortune to be able to provide parent-only care and were aware that it was only their financial security that afforded them this parenting choice. They were acutely aware that others did not have the choice to be a parent-only carer at all. As one participant explained: ‘I did have a choice [to provide parent-only care] and most women don’t have a choice... I’ve got lots of friends that went back to work when their babies were three months old, because they had to pay mortgages’ (P3).

One participant empathized that single parents are often denied the choice to provide parent-only care, stating: ‘single-parent families, well what choice do you have? Of course you have to go to work to provide food and shelter for your family’ (P2). This was the experience of a minority of research participants.

‘I’ve had genuine choice’ – the minority of parent-only carers with the ‘choice’ to work

Importantly, a minority of participants stated that they did consider they had real choice to work while providing parent-only care for their young children. These participants were all highly educated, enjoyed financial security such that their income was not considered essential for their family, had well-established careers and supportive workplaces and possessed confidence to openly require their employer to adapt their working role to accommodate their parent-only care. Many of these participants also provided parent-only care via shift-parenting arrangements with their partners. The impact of these factors on choice is evident from the following excerpt from one participant’s story:

I’ve definitely felt like I’ve had choice. And I’ve put that down to having a profession [and] a good education base and [working in] a female-dominated profession. All of my managers have been women, and are mothers themselves, and so I’ve felt very supported in the work environment... And we’ve been fortunate enough that while my income is certainly important, it’s valued, it’s not essential, so I haven’t felt pressured financially to get back to work. (P15)

A further participant, while not integrating parent-only care and work at the point of involvement in the research, explained how her professional experience and reputation,
coupled with her family’s financial security, vested her with the confidence to demand work that accommodated parent-only care:

When I do work now it’ll be some kind of after-hours [work], no childcare, on my own terms. Professionally I’m able to do that now. I feel like I have the skills and the experience where I can be a bit fussy and go to connections and say: ‘this is the sort of work that I’m prepared to do, you give it to me’. And if not, I’ll go somewhere else. (P10)

A similar view was expressed by one focus group participant, who explained that in negotiating her working arrangements after the birth of her first child, she was conscious of the strength of her negotiating power as a highly valued worker which enabled her to seek working conditions that facilitated parent-only care. She noted that many other workers lack similar negotiating strength and are thus anxious about the length of their parental leave and less empowered in negotiations about working terms and arrangements. She concluded: ‘I think that really comes down to not necessarily the employer but how the employee feels with how strong the negotiating power she has is’ (FGP5).

For others, choice could depend on the industry in which they were employed. One participant noted that her experience in being able to demand working arrangements compatible with parent-only care was directly linked to the shortage of workers in her industry, which she considered artificially enhanced her bargaining power (P20). Another participant noted: ‘I have [experienced choice], yes. But I think I’ve been lucky to be in an industry that has enabled me to do that. And in a freelancing capacity it means basically I’m running my own business’ (P21).

All of the participants who reported that they experienced choice at the work and parenting interface noted that they considered themselves unusually fortunate, as one participant emphasised: ‘I wish that other women had the circumstances and opportunities that I have. Not necessarily choosing what I’ve chosen, but having the capacity to do so in one way or another’ (P14). In the words of another participant: ‘we’ve been really lucky… very lucky’ (P22). Another participant emphasized: ‘I’m completely spoilt, this is the most ultimate scenario you’re ever going to hear I think[I’m well supported within my family] and I’m well supported at work as well… I’m extremely lucky’ (P12).
Importantly, a relevant factor noted by the research participants was the supportiveness of the other parent and the extended family network, as one participant explained: ‘the other factor is just how supportive your husband is, both in terms of helping out and being flexible’ (P14).

The lack of work choices for parent-only carers within the work environment

The lack of choice experienced by parent-only carers vis-à-vis work is not only an issue at the point of entry to the labour market, or in renegotiations concerning return-to-work arrangements made following the birth of a child. A core theme to emerge from the empirical research was of the difficulties for parent-only carers within the work environment. One participant, who had recently left the workforce after attempting to balance parenting and work, explained how her difficulties trying to integrate work and parenting had led her to feel she had no choice but to resign from her job:

It is obviously something I have struggled with, like all mums. It’s been such a hard thing to work and balance my family life. And it’s been something that has been a struggle all the way. And I’m right at the end of where I went: ‘it just doesn’t work and I can’t do it anymore’… (P10)

The difficulties are compounded for single parents, as one participant reflected: ‘it’s very hard... by yourself’ (P11). This is particularly so for those who lack a strong extended family or friendship support network.

Of the research participants that were providing parent-only care and working at the time of the interview, many spoke of experiencing acute discrimination in the workplace. This occurred in the context of seeking to maintain working conditions that accommodated parent-only care beyond a short-term duration, the need to continually defend and justify such arrangements with colleagues and managers and the experience of adverse effects on career progression, income and work opportunities.

The stigma of parent-only care in the labour market

A central theme to emerge from the research is that there is a strong stigma associated with parent-only care in the context of work. This was discussed at length by both individual
interview and focus group participants. Participants described feeling compelled to downplay the importance of, or their involvement in, parenting their young children when negotiating the terms of their employment, or their return-to-work, with their employer. Many participants reported feeling apologetic and indebted for asking for ‘favours’ in terms of working arrangements that accommodated parenting. The very fact of having young children was seen as something highly unattractive to an employer, to be down-played to maximize a worker’s prospects in entering, returning to or remaining in the workplace.

One participant noted that plans to provide parent-only care for a child had to be down-played to colleagues, explaining: ‘I have to be absolutely coy about [plans for work and parenting]… Even around one of my very best friends, who is one of the psychologists in my team’ (P14). Another participant explained that she felt isolated and misunderstood, saying: ‘I feel they don’t understand me at all’ (P8). Some participants attributed the stigma to jealousy from colleagues, as one participant reflected:

> Sometimes it’s a bit contentious with colleagues, in that people sort of go: ‘Oh lucky you, you’re having your day off’ [when working from home]… I’ve tried to ask my manager if it could be raised now and then at a staff meeting to see if anyone’s got any comments they want to say and we can try and address problems. But no one says it, it’s just that culture of ‘you’re so lucky, you only work part-time’. (P4)

A further participant considered that co-workers can be acutely antagonistic to parent-only carers in the workplace, often as a consequence of the difficulty of their own experience, explaining:

> I think it is genuine hostility at times, and sadly it often seems to come from women who’ve been mothers. It comes from both the mums who chose to stay at home when their children were young and not work, because they say: ‘well I had to make a choice either way, I stayed at home, what are you going to do?’ And it comes from mums who worked full-time. And they say: ‘well, I missed out, I devoted my time to my career and missed out on my children’. (P16)

The stigma was reported to be attached to parenting, not mothering, as one participant explained: ‘it was still very hard when [husband] was the primary carer’ (P5).
Discussion

Initiating a qualitative Australian voice in empirical research on choice

The findings of this doctoral research show how separate spheres ideology, with its segregation of work and parenting, sidelines parent-only carers in the labour market. Barriers to participation in the workforce are experienced at the point of entry, which precludes many parent-only carers from attaining paid work, notwithstanding the strong desire and need they may have for such work. These findings are significant in the absence of any previous Australian qualitative research exploring the issue of choice for parent-only carers at the work interface.

There is a very limited body of other qualitative research, predominantly in the American context, which has considered this issue. Ruben and Wooten’s study, which has previously been discussed, touches upon this issue.¹ Williams’ work on the impact of class at the work-family juncture powerfully illustrates the effect of work-family conflict on working class families and challenges the ‘opt-out’ myth that presently predominates in the mass media.² Reich notes:³

I took the only path that seemed open to me. I quit my job. I was lucky. I had the financial resources available to do this and the confidence that I would soon find another job which would place fewer time and energy demands on me. But not everyone has this security: in fact, throughout the world, very few people do.

The importance of support was also a key theme of the empirical research which resonates with other qualitative research.⁴ This is an important issue that has been discussed at length in Chapters 3 and 4 in the context of shift-parenting and informal care arrangements. Here, it is relevant to note that emotional support from the family and friendship network is considered vital for parent-only carers. This is in the context of the lack of structural support for parent-only carers at the work interface, which marginalises them from the labour market and requires

⁴ Rubin and Wooten, above n 1, 343.
them to internalise costs that are at least partly absorbed for those operating within the separate spheres model.

**Situating the empirical findings in the theoretical and reflective literature**

The issue of choice at the work and parenting juncture has been much more extensively explored in the theoretical and reflective literature. Consistent with the findings of this research, many scholars have recorded the financial imperative to work that denies many parents of young children the choice to provide parent only care. The impact of sole-parenting in aggravating the lack of choice at the work and parenting interface is also noted in the literature.

It is important to distinguish the very scant research or academic discussion on the phenomenon of parent-only care at the interface with work from the much more abundant body of literature on choice at the work and parenting juncture. Regarding the latter, the socio-legal literature documents that most parents, particularly mothers, are denied proper choice in the present socio-political framework. Without understating the significant and systemic nature of the problems confronting all parents of young children, an analysis of the legal and industrial framework reveals that structural supports, while restraining choice, do permit some choice to be exercised at a basic level for parents whose parenting practices align with the separate spheres model. The situation is starkly different for parent-only carers of young children. For all except the most socio-economically well-positioned, highly educated and highly supported parent-only carers, there is scant choice with respect to labour market participation at even the most fundamental level.

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5 As Kitzinger notes: ‘Not all women want to work outside the home. To be forced to do so when you have young children can be just as bad as being denied work’: Sheila Kitzinger, *Ourselves as mothers: The universal experience of motherhood* (Addison-Wesley, 1995), 228. See also Chapter 5.


7 See for example Gambles, Lewis and Rapoport, above n 3; Dux and Simic, above n 6; Anne Summers, *The End of Equality: Work, Babies and Women’s Choices in 21st Century Australia* (Random House, 2003); Lesley Cannold, *What, No Baby? Why Women are Losing the Freedom to Mother, and How They Can Get it Back* (Curtin University Books, 2005). The fullness of the research literature on this issue will be discussed in Chapter 8.
**Choice as an equality issue**

The findings of this research highlight the impact of education, professional status and established workplace credentials on choice. The conclusion to be drawn from the findings is that choice at the interface of parent-only care and work is an equality issue. There is support for this conclusion in the academic literature. Cass and Radi contend that, under industrial capitalism, the ‘choices’ that women make with respect to the way they manage the work and mothering juncture vary according to class and socio-economic status.\(^8\) Thornton similarly recognizes that patterns of paid work force participation are ‘modified by the women’s particular socio-economic and cultural background’.\(^9\) While these scholars have considered the issue of work-life context from a gendered perspective, their insights are relevant for parent-only carers irrespective of gender. Williams argues that class has a significant impact on the choices women have,\(^10\) stating ‘many mothers do not opt out; they are pushed out... What happens to working-class families for whom opting out is not an option?’\(^11\)

The issue is compounded because the choices this thesis is concerned with are those pertaining to parenting and to work. While some parents are able to choose whether to work or not, most parents need to work.\(^12\) When choice with respect to work is linked to socio-economic status, this becomes an equality issue.\(^13\) Summers expresses this well when she states: ‘to me, women’s economic independence is a fundamental right and one that is the foundation of women’s ability to make meaningful choices about other areas of their lives’.\(^14\) For most parents of young children, exercising the ‘choice’ to either not work or to work in a way that accommodates parent-only care significantly increases the likelihood of experiencing financial difficulty, precarious work status, and limited future career options. As such, it is not a real

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\(^10\) Williams, above n 2, 3, 12ff.

\(^11\) Ibid 3.

\(^12\) Cannold, above n 7, 167-8.

\(^13\) Ibid 259.

choice at all.

**The rhetoric of choice**

The discourse of choice has been deeply embedded in the work and family debate since Hakim’s ‘preference theory’ was commissioned and embraced by former Australian Prime Minister John Howard. Hakim’s highly contested theory attempts to account for the varying work and childbearing patterns of women by typecasting women into one of three essential categories: ‘work-centred’, ‘home-centred’ and ‘adaptive’, categories which are developed to reflect the three basic preference groups women naturally fall within. Hakim contends women can make choices about the work and parenting configuration in their life, with the different choices made by women (which are based on their innate orientation towards work or home) explaining different behavioural outcomes.

The research underpinning the bulk of Hakim’s preference model is limited to partnered women, justified on the basis that ‘women’s choices only become sharply defined, and can only be implemented, after marriage to a breadwinner spouse’. Research by Garey and by Murphy and Probert credibly debunks this categorization of women as ‘ahistorical, homogenizing and static’ and one that ‘assumes that women, and not families, make choices, once and for all, based on an essential orientation’. Hakim’s approach does not consider the many and varied factors outside of the realm of individual or family choice that shape the ways in which the work/family interface is managed by individual women. Cannold strongly contests Hakim’s model of choice, stating:

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15 The work of this sociologist was embraced by Howard on his quest to increase national fertility.
16 See for example Dianne Houston and Gillian Marks, ‘The Role of Planning and Workplace Support in Returning to Work after Maternity Leave’ (2003) 41(2) British Journal of Industrial Relations 197; Cannold, above n 7, 255.
20 Cannold, above n 7, 255.
In a world in which the law, social attitudes and economic realities constrain women’s freedom to choose their employment, and practically everything else, it is patently absurd to extrapolate from what women do to what they’d actually choose to do were they truly free to decide.

Probert argues that a ‘stumbling block’ to policy reform is the way moral discourse stereotypes women as essential ‘types’, rather than focusing on their interests and needs.  

Yet notwithstanding its highly questionable foundation, the rhetoric of choice has been deeply influential in Australia. The rhetoric of choice operates to vest parents with a sense that they are able to make rational and informed choices about the ways in which they wish to arrange their life at the work/parenting interface. It operates powerfully to deflect attention away from the constraints on parents’ decision-making and to designate the problems and tensions at the work/parenting juncture as personal problems. Parents are encouraged to see the conflicts that arise between their work and childrearing desires and responsibilities as personal problems or shortcomings. However, the problems are really systemic. As Summers states: ‘far from the inability to cope being a personal shortcoming, these issues constitute a massive social problem that ought to be recognized as such’.

The research findings clearly demonstrate that at both the point of entry to, and within the work environment, there are many factors that deflect from a realistic opportunity of choice for parent-only carers to work. These findings highlight the inappropriateness of the rhetoric of choice that can be seen to be displacing causation by ‘blaming the victim’.

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21 Belinda Probert, ‘Introduction’ in Grimshaw, Murphy and Probert, above n 19, 1, 2.
24 Summers, above n 7, 12. Chapter 6 discusses the effect of discourses including that of capitalism and consumerism on current work and parenting norms. There is support in the literature for the argument that capitalism and consumerism reinforce individualism and perpetuate the perception that issues pertaining to work-family integration are individual, notwithstanding that collective and collaborative solutions are needed: Rhona Rapoport, Suzan Lewis, Lotte Bailyn, and Richenda Gamble’s ‘Globalization and the Integration of Work with Personal Life’ in Steven Poelmans (ed), Work and Family: An International Research Perspective (Lawrence Erlbaum Associates, 2005) 463, 468.
A traditional focus on individual ‘problems’ in the (neo)liberal tradition

Traditionally, an individualist approach has been taken to the issue of work-family conflict. In the established management literature, such an individually-orientated perspective has emanated from role theory, which has focused on the individual predictors and consequences of work and family conflicts for workers. The organizational response has predominantly been at a micro-level, managing ‘individual employee problems’, rather than appropriately recognizing this issue as a ‘central social concern’ or a ‘global challenge’.

This individualist-orientation has engrained the myth of work and family as separate spheres. It has significantly weakened the focus on organizational context, including the relevance of factors such as job design, workplace culture and management leadership. As such, typical employer responses have been in the form of policies and practices that emphasise individual responsibility (such as counselling and self-help groups), rather than structural reforms.

Further, given that the focus has typically been on the way in which the work and caring conflict plays out in the lives of mothers, not parents, the focus is not only on individual choice but on individual women’s choice. Women are given the choice to adhere to the unencumbered worker norm and outsource their caring work, choose not to work with the associated financial and career ramifications or undertake the majority of the domestic and caring work and accept a part-time or casual job that generates the least amount of work-family conflict.

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28 Rapoport, Lewis, Bailyn, and Gambles, above n 24, 465.
29 Gambles, Lewis and Rapoport, above n 3, 4.
30 Kossek and Friede, above n 26, 622.
31 Ibid.
32 As the UK Department for Trade and Industry provides: ‘Work-life balance isn’t only about families and childcare. Nor is it about working less. It’s about working “smart”. About being fresh enough to give you all you need for both work and home, without jeopardizing one for the other. And it’s a necessity for everyone, at whatever stage you are in you your life’. Cited in Houston, above n 17, 1.
33 Kossek and Friede, above n 26, 622.
domestic work that is still predominantly performed by women remains unacknowledged and unchallenged, as Smith notes, ‘women are able to “choose” how to combine home and paid work but have little real option to not do the domestic work’. Smith argues that, by default, the choices of men are also constrained, perhaps even more so, with the breadwinner model still dictating notions of masculinity, although they are not so financially disadvantaged. It is not only the concrete constraints created by the labour market and the legal system that curtail the choices of parents of both gender, but, as Gambles et al suggest, assumptions about what men and women ‘should’ do. Owens concurs, arguing that choices are directed in part by the social environment surrounding the person making the choice. Cannold tempers this by proposing that while social forces may ‘constrain’ thoughts of the possibilities and options available to women, and their confidence to freely choose, women retain responsibility to direct their own lives when properly given the freedom to do so. In a different context, but of relevance here, Petchesky contends:

That individuals do not determine the social framework in which they act does not nullify their choices, nor their moral capacity to make them. It only suggests that we have to focus less on ‘choice’ and more on how to transform the social conditions of choosing, working and reproducing.

The importance of a systemic approach to these issues cannot be underestimated, as Rapoport et al assert:

Although some individuals may be able to opt out of professions or career tracks that are characterized by long hours at the expense of pay opportunities and promotions, this obscures the societal, economic, and cultural constraints under which these ‘choices’ are made. When an individual is making such a ‘choice’, the person is influenced by the workplace norms, expectations, and societal values that generate paid work and money as markers of status. These norms and expectations may deter requests for more time for family or for greater

36 Ibid 697.
37 Gambles, Lewis and Rapoport, above n 3, 4.
39 Cannold, above n 7, 35.
41 Rapoport, Lewis, Bailyn, and Gambles, above n 24, 473.
flexibility by people who seek advancement in the workplace and can result in impossible
standards by which others are measured.

Berns argues that the classical liberal rhetoric of individual choice persuades women that they
are able to make work and mothering decisions but masks the ‘disincentives to choice’ that
operate at all levels. She reminds us that choices are made within a ‘complex social and legal
order’ that shapes the choices made by individuals, often in unexpected ways. Choices are
‘reinforced and implicitly supported’ by government policy in the areas of taxation, social
welfare and industrial relations. Williams similarly notes:

The common observation is that women are hurt by the hard choices they face. Once the focus
shifts away from women’s choices to the gender system that sets the frame within which those
choices occur, we can see that domesticity’s peculiar structuring of market work and family
work hurts not only women but also men, children, politics, and our emotional life.

Dux and Simic draw attention to the ‘fundamental contradiction’ inherent in the reliance on
women workers and failure to support those workers through child-rearing, with the lack of
support significantly affecting the resultant decisions. Pocock attributes some element of
influence to the choices made by individual women, yet notes this is but one thread in a
tapestry of complex factors. She argues that there are three forces that shape the work/care
regime – institutions, cultures and behaviour – and that these forces are not independent of
each other but shape each other in a mutually interdependent way.

Options like part-time work are said to be ‘chosen’ by mothers. However, once it is
understood that for most parents of young children, working is not only a desired role but a
financially necessary one, while the predominant preference of parents with young children is
not to outsource their care, choice becomes a very hollow concept. As Dux and Simic

42 Sandra Berns, Women Going Backwards: Law and Change in a Family Unfriendly Society (Ashgate, 2003), 186 -
190.
43 Joan Williams, Unbending Gender: Why Family and Work Conflict and What to Do About It (Oxford University
44 Dux and Simic, above n 6, 104.
45 Barbara Pocock, ‘Australian Mothers in 2004: Awaiting a Decent Work/Care Regime’ in Grimshaw, Murphy and
Probert, above n 19, 8, 16.
46 Ibid 4.
47 The quantitative research establishing these preferences is detailed in Chapter 1.
The word ‘choice’ is also relied upon when it comes to mothers returning to work, even though their ‘choices’ are often taken under the weight of economic necessity. If you provide women with no paid maternity leave, a labour market that disadvantages families, and employers who require them to keep their parenting issues outside the workplace, what you are left with is a swag of non-choices and non-decisions. ‘Choice’ has become a buzzword in our brave new neoliberal world. It implies a smorgasbord of options, yet the reality is that few of us are able to access everything that’s on the menu. It is a hygienic word that cleans away the messy real-life complications that compel and constrain ordinary people.

Parents do not live, work and act in a vacuum. To proffer the ability to choose without providing the instrumental mechanisms essential to enable proper choice to be made is meaningless. As Cannold notes, there is a significant difference between negative and positive choice, with the former providing legal freedom by removing the fetters to choose in a particular way and the latter providing the resources and supports necessary to put the desired choice into action. Cannold concludes simply: ‘[c]hoice requires more than legal freedom – the removal of a prohibitive law is the start of freedom, but on its own does not guarantee it – it is the social and material conditions in which people make choices that determine whether they have empty rights or rights that are real’. Williams ably sums up the fallacy of the choice rhetoric when she states:

When mothers use the choice rhetoric, they are being ‘realistic’ in a society where the best jobs require ideal workers to have the ability to relocate and to command a flow of family work few mothers enjoy. Allowing women the ‘choice’ to perform as ideal workers without the privileges that support male ideal workers is not equality. It’s a system with ‘built-in headwinds’ that discriminate against women. If women are offered the option of keeping the jobs they want with the schedules they need, they stop describing marginalization as their choice.

A number of scholars in this area are united in identifying the lack of work choices available to all Australian parents of young children. For those at the interface of parent-only care and work, the choice rhetoric has been unhelpful and discouraging and marred progress that would address the systemic legal, industrial and policy problems in this area. As the empirical findings

48 Dux and Simic, above n 6, 108, 186.
49 Cannold, above n 7, 57-8, 281-2.
50 Cannold, above n 7, 286-7.
51 Williams, above n 43, 5-6.
establish, the extent and effects of the lack of choice are aggravated because parent-only carers fall outside the dominant separate spheres model, which is the only model which is presently structurally supported in Australia. In light of the fallacy of a model built around parents’, particularly mothers’, choices, some scholars have recently proposed moving instead to a rights-based model to address work-family conflict. Leading advocates of this approach include Still and Williams, who argue that the shift from a concern with choice to a concern with rights appropriately changes the focus from the individual to the larger societal institutions and frameworks (such as laws and workplace policies), with the potential for more positive outcomes.\(^52\) Dux and Simic similarly advocate this paradigm shift, asserting.\(^53\)

If you swap the language of choice for a language of rights, you get a very different outcome, one that puts the onus back on the community, rather than on individual women (and their children), who sink or swim, with only themselves to blame.

However, the language of rights is itself problematic. The next chapter explores the role of the industrial system in establishing a system of ‘rights’ designed to assist parents at the work-parenting juncture. That chapter argues that, while rights such as parental leave, flexible working arrangements and part-time work are offered to facilitate labour market participation by parents of young children, such rights are often hollow and inconsistent and are not without strings attached.

**Conclusion**

This chapter has outlined the empirical findings on the issue of choice in relation to parent-only care and work in the present framework. The research findings are that parent-only care significantly constrains work choices for most people. The majority of parent-only carers are marginalized in the present industrial framework and their ability to work is not supported. Further, the findings show that choice is an equality issue; a minority of parent-only carers, those who are highly educated and socio-economically supported, do have choices while


\(^{53}\) Dux and Simic, above n 6, 185.
parent-only carers without such supports do not. Choice at the work-parenting interface is therefore closely linked to factors such as education, industry of employment, socio-economic status and workplace and intra-familial support, and is thus an equality issue. However, the subgroup who reported experiencing choice to work also encounters significant hardships, which are magnified for the majority of parent-only carers. The following comment by Cannold resonates with the sentiments of the majority of participants:54

Is this choice? Most people understand a choice as a decision a person makes when she has a full range of possible options from which to select, and is equally free to choose any one of them.

Once the present framing of work around the notion of the ‘unencumbered worker’, the development of a childcare model assuming outsourced care and the bias stigmatizing most parents within the workplace is understood, the lack of work choices available to parent-only carers in terms of labour market participation is both unsurprising and inevitable.

The rhetoric of choice is a means of masking the lack of choice available to parents and individualizing the problems that, as this chapter has argued, are really the inevitable consequence of structural, systemic issues. The rhetoric of choice creates the illusion that parents are able to make rational and informed ‘choices’ about the ways in which they wish to manage their life at the work/parenting interface whilst masking disincentives to choice. By propagating the rhetoric of choice, problems and tensions that inevitably arise at the work/parenting junction are designated as personal problems, when the problems are really systemic.

The next two chapters will consider the role of the law in the attainment of equality for parent-only carers. Chapter 9 will contextualise this chapter’s discussion on the lack of choice experienced by the majority of parent-only carers within an understanding of the importance of autonomous choice and equality vis-à-vis the law. Before doing so, however, Chapter 8 will consider some of the key measures that have been designed to foster choice at the work-parenting juncture and to proactively facilitate parents’ participation in the spheres of work and

54 Cannold, above n 7, 14.
parenting, focusing on the three main measures: parental leave, flexible or ‘family friendly’ working arrangements and non-standard work.
Chapter 8: Why industrial measures have not solved the problem

Introduction

So far, this thesis has mapped the phenomenon of parent-only care at the interface with labour market participation, presenting and discussing the empirical findings on the meaning of parent-only care and the reasons why parents choose to care in this way, including the desire by parent-only carers to not outsource care and the alternatives to parental care for young children. The research findings on the meaning and importance of work for parent-only carers were also presented, set within the context of insights from the literature.

This thesis has then situated the phenomenon of parent-only care at the interface with work within a broader socio-legal framework. Separate spheres ideology and its impact on the delineation of work and parenting roles was explored, along with the rhetoric of choice, which designates the problems that arise at the work and care juncture as personal, rather than systemic, problems.

This chapter now commences the process of engaging in a detailed analysis and critique of the existing legal framework, in particular the industrial and anti-discrimination and equal opportunities regulatory regimes. Two chapters consider the role of the law, both proactively and remedially, in asserting and protecting the right of all workers (*ipsos facto* parent-only carers) to equality in the labour market. This chapter begins this process, focussing on the proactive measures that have been introduced to facilitate labour market participation by parents of young children.

These two chapters will show that, despite the fact that the federal and state governments have, in recent decades, introduced different industrial and legal measures aimed at lessening work and family conflict, the problems facing parent-only carers have not been resolved. This is because these measures, which include parental and carers’ leave, flexible or ‘family friendly’ working arrangements and non-standard work (such as part-time, casual and shift work), do not challenge the dominance of the separate spheres model. Indeed, the measures support the
dominance of the separate spheres model by affirming the separateness of the realms of work and parenting and fail to address the fundamental concern of parent-only carers to integrate these realms. As a result, parent-only carers remain marginalised from and within the labour market.

In this chapter, the empirical findings pertaining to each of these measures (parental and carers’ leave, flexible or ‘family friendly’ working arrangements and non-standard work) are outlined and then discussed in the context of the relevant literature. The purpose is to show that, from the perspective of the lived experience of parent-only carers, the legal measures are effective only at the margins, and have failed to resolve conflict in any significant way. This chapter begins by examining the research findings in relation to unpaid and paid maternity leave and flexible and non-standard working arrangements. From here, the chapter explores the empirical findings in the context of the literature.

**Research findings**

**A: Leave entitlements**

Parental leave was the subject of extensive discussion in the in-depth interviews and in the focus group. This section will now present the empirical findings on unpaid parental leave, before moving to the findings on paid parental leave.

**Unpaid parental leave**

The majority of participants evidenced awareness of their entitlement to unpaid maternity leave. One participant stated: ‘I worked in a charity organization so there was no maternity pay’, but understood that she was entitled to 12 months off work (P1). Another participant explained: ‘They [the employers] were really good, I was very lucky I was working for a government body at the time. So I got twelve months off’ (P3). However, a minority noted they were not entitled to any form of leave because they did not meet permanency or length of service requirements. One casual worker, who was employed by a workplace where the majority of workers were casual, noted: ‘maternity leave wasn’t [available] where I was
working’ (P11). Another participant explained:

Unfortunately I had worked for [employer] for ten years. We had difficulty getting pregnant and had given up and I’d left my permanent job [to go] overseas... The day before we flew out, I found out I was pregnant. So after all of that, I didn’t have a permanent job after I found out I was pregnant and didn’t get maternity leave. (P16)

Paid parental leave

At the time of the empirical data collection, the Paid Parental Leave scheme, introduced by the Federal Government in 2011 and discussed below, had not yet commenced operation nor had its scope been confirmed and thus, while anticipated by a number of research participants, no participants were able to comment on the logistics of the Paid Parental Leave scheme. Those participants who received paid parental leave were so eligible pursuant to a private contractual or industrial right.

The majority of the research participants reported receiving minimal or no paid maternity leave. The participants who did receive paid maternity leave appreciated it as a financial buffer enabling them to afford the absence from work, particularly when combined with other accumulated leave entitlements. One participant explained:

I got 12 weeks paid maternity leave and I had quite a bit of [annual] leave and I also took long service. I’ve always taken it at full pay but this time I’ve taken it at half pay, so I’m still getting paid now. (P10)

In the words of another:

I got six weeks, so I stretched it out to 12 weeks at half of my normal pay. And then both times I used all of my [annual] leave, and then leave without pay. The baby bonus made that possible as well, another income. If we’d had more paid leave we could have stretched it out for longer. And that would have been certainly easier. (P22)

Another participant, a researcher on a contract, was able to take paid maternity leave but had no position to return to:

During that period [of maternity leave], I knew that my position as a research officer would come to an end, because as a research scientist you’re on two to three yearly contracts. So we had no further funding for my position and if I was going to get back into the workforce, I would
have had to have applied for more funding and look for a job elsewhere anyway. (P2)

Despite this, the paid maternity leave she received was highly valued. She explained: ‘I took six months paid maternity leave, which the university offered at that stage. They’re very good’ (P2).

Paid maternity leave was also valued for more symbolic reasons, as one participant explained:

The fact that I do have paid maternity leave [is a] symbolic way of legitimizing my role… that what I’m doing is important. I guess from a cognitive perspective, it is even easier to rationalize the decision [to stay at home with the child]. (P14)

A further participant similarly explained: ‘paid maternity leave is a good thing because it pays mothers to mother, it gives value to that’ (P20).

Returning to work after leave

Most participants did not return to their previous employment after the birth of their child – this was the case irrespective of whether the participant had received parental leave entitlements. All of the participants who spoke of this issue explained that the reason for this was that they would be unable to continue to provide parent-only care for their young child upon returning to their former working role. For some participants, realization of the incompatibility between parent-only care and the requirements of their job crystallized after the birth of their child, as one participant explained:

We had gone into my maternity leave assuming I would take 12 months off. And we got about six or eight months into it and realized [that] me going back to work at 12 months was not going to be an option. (P12)

Another participant similarly stated: ‘After 12 months I had no intention of going back, for many reasons’ (P19), and went on to proffer reasons that all related directly to the inability to combine her working role with parent-only care of her child. This is consistent with the finding, discussed in Chapter 4, that many participants experienced surprise at their strong desire to provide parent-only care following the birth of their child.
B: Flexible working arrangements

Given this desire to combine care with work, the option of flexible working relationships would appear to be helpful. However, despite the rhetoric of flexibility, many participants found that inflexibility was the reality.

_Disconnect between workplace rhetoric and reality in the era of the ‘flexible’ and ‘family-friendly’ workplace_

As one participant explained:

> My experience is that people always say they’re flexible but often they’ve never really had to deliver on that... There’s a disconnect between [workplace policies and representations] and actually how it plays out in practice... (P4)

She continued: ‘sometimes a flexible employer just means ‘oh yes you can knock off between 4:30 and five’, or something like that. And that’s not exactly what you need’ (P4). Another participant described her experience with a Government employer that promotes itself as ‘family-friendly’ as follows: ‘there’s a lot of animosity [towards parents in the workplace] and it’s ironic because it’s a workplace that’s all about embracing diversity and all these other issues’ (P14). A further participant described her experience: ‘I often get the feeling there’s frustration because I just have to leave on time now... it’s noted... sometimes it feels like bullying...’ (P16).

_Being one of the ‘lucky ones’ – where rhetoric and reality meet_

A minority of participants reported that they did experience genuine flexibility in their working arrangements. All those who self-identified in this category noted that they were in the minority, one of the ‘lucky ones’. As one participant explained: ‘I’m one of the few people who’ve actually got family-friendly. Well, a lot of people quote family friendly, but what you actually get at the end of it isn’t always family-friendly’ (P8). Another participant provided the
following insight into how her genuinely flexible arrangements worked:

We’ve got a flexible workplace policy in our type of work... so she didn’t care when I did the work. [Child] would nap for two hours in the middle of the day, so I’d do two hours work in the middle of the day every day and that was my work week. [I work] nights or weekends or if grandma’s got her... I’m still doing really interesting things, because we’ve been doing a lot of strategic work around things in the business, so lots of thinking and research... (P12)

A further participant explained how her supportive workplace culture helped to make the flexible working arrangements offered by that company a reality:

I’m very fortunate in that the company I work for is really supportive [of flexible working arrangements]... It’s easy for us, it works, I can do my job sitting in front of a computer somewhere else, I don’t need to be in the office. (P18)

True flexibility could be facilitated by the type of work, as one participant explained, ‘at the university, it’s very different [to her other, public service, employment] and I feel like I’m being recognized for my contribution and just by the nature of the work, it allows for greater flexibility’ (P14). However, the experience of many participants was that flexibility was not offered in circumstances where it could be.¹ The next section considers the circumstances in which flexible working arrangements can properly be utilised by workers.

Factors that influence the attainment of proper flexibility

The desire for genuine flexibility was a core theme to emerge from the focus group. Participants spoke at length of the difference between employers’ lip-service to flexibility and what flexibility really requires. The latter was considered to include the opportunity to work hours and conditions that cater for parent-only carers, the opportunity to perform work from home and the opportunity to progress within an organization without being a ‘standard’ worker. One interview participant, in a statement which is consistent with the comments of many other participants, noted:

That’s probably one of the options [that enables parent-only carers to work], work from home, but it depends whether you can work from home in two hour slots or in the evening, versus you

¹As discussed in Chapter 6, this was largely attributed to mindsets and preconceptions held by employers, colleagues and more broadly society about the nature of work and parenting.
know you’ve got to be at your phone, at your computer, in your home study [for set hours at a set time]. (P1)

Another participant similarly explained:

I’ve had a manager that’s said to me: ‘I don’t really care if you only sit there for five hours, if you do what I require you to do and everything’s on track, I don’t care...’ My current arrangement is more like the work hours are 8.15 ‘til five and I want to call and you’re going to be there unless it’s your lunch break [she spoke of how the former arrangement assisted the integration of parent-only care and work whereas her current arrangement did not]. (P4)

Some participants noted that the onus is presently on workers to seek flexible conditions, which is difficult for most workers without strong bargaining power. One participant explained: ‘I negotiated it back to two shifts and that’s been difficult, I’ve had to be quite assertive about that for the past six months’ (P16). Another participant noted reflected: ‘in the beginning [I was] fully apologetic’ (P2). A further participant explained:

It has been difficult. Because you know that there’s probably a better chance that they’ll say no than that they’ll say yes. I suppose it’s just one of those things, it depends how badly you want the job and that type of thing. And I’ve been prepared to go backwards in a way... I have also talked to colleagues or people, other girls at work who’ve got children and in my sort of circumstance, and they are a bit tentative in raising it and they do feel like they’re asking a favour. (P4)

It was suggested that overt encouragement of truly family-friendly working practices would help. One participant proposed:

I think you would need to do an overt encouragement of it. Call for employees that would like to participate in this arrangement, rather than wait for the employees to come up to you and say: ‘I’m not going to do the job unless...’ Try to call for people to participate and give people options of here’s what we can do and support people. (P4)

Some participants mentioned that they were aware that they were setting precedents in their workplace and were concerned to ensure the arrangements were demonstrated to be beneficial for the employer. One participant explained: ‘I couldn’t really ask for a better opportunity and I have worked very hard to make it work so that other people have similar opportunities as well in the future’ (P12). Another participant reflected:

I was the first person to do this for this organization. I go along with some of their insecurity
about the arrangement and try and reassure them: ‘yes, ok, I’ll work those arrangements’.
We’ve got more people at my workplace that now work from home... so you know, it’s the thin edge of the wedge. (P4)

For many participants, the ability to work while providing parent-only care was dependent less on the policies of their organization and more on the particular decision-maker at the time, with some managers much more receptive to certain working arrangements than others. One participant entirely attributed her radically different experiences following the birth of her two children to the change in Principal at the school where she was employed. Another school teacher participant similarly noted that it was dependent ‘on what the Principal is like’ (P13). A further participant was of a similar opinion, attributing her fundamentally different experiences with the same employer as due to the difference in managerial approach, emphasising: ‘different managers have different views on things’ (P4). Another participant spoke of her significantly different experiences associated with different management:

Whereas at first it was very supportive, there was the Director General writing things and saying things like don’t want part-timers on this project, a real ‘anti-mother’ vibe. So from top down, not getting any sort of support. And a lot of people struggled with that… But at other times I had people who were really supportive… it was really only as good as the people above you. (P10)

As will be discussed in Chapter 10, some participants proposed that task, as opposed to time, oriented work was truly flexible and allowed integration of parent-only care and work. Indeed, some of the participants’ roles were structured in this way and it was these participants who were able to integrate parent-only care and work. These participants found their workplace genuinely parent-friendly and stated that this had benefits for the employer and workers alike, in terms of staff availability and retention and workplace morale.

C: Non-standard work

‘He makes no promises...’ – difficulties associated with the attainment of non-standard work

The empirical findings document that a core problem with non-standard work is the insecurity attached to the attainment and continuation of such work. Many participants described the significant reluctance they had experienced from employers in response to their requests for
part-time working arrangements. One participant, who occupied a management position with her employer, offered the following insight:

Because lots of times I was on selection panels and committees and people would ask you: ‘can part-timers apply?’ And the message was often ‘no’. Because it’s that whole section that it needs to be ‘organizationally convenient’. And you know, that is just anything. Anything can be done part-time, really, and the message was no, it’s too hard. Because as a manager you’ve got to supervise twice as many people. (P10)

The following excerpt is from an interview with a participant who was a high-level Government employee:

[Director] said ‘... it certainly wouldn’t work for you to come back part-time’. And I was quite offended at that, so I rattled off some of the IRMs and things I knew about parental leave and things the union had told me... And he said: ‘oh, you know all the information, don’t you?’ And he backed down... (P14)

Another participant explained:

It’s that whole section that it needs to be ‘organizationally convenient’. And you know, that is just anything. Anything can be done part-time, really, and the message was ‘no, it’s too hard’. Because as a manager you’ve got to supervise twice as many people. Which you can understand sometimes, but if it means getting the best person for the job... (P10)

A further participant explained that project-based work compatible with parent-only care was available at her workplace, but that most projects were arbitrarily determined to be appropriate only for full-time workers, explaining: ‘they all need to be done on a full-time basis... within a certain time-frame. They don’t always allow them to be done in part-time hours’ (P16). Another participant similarly noted: ‘I had the option of going back full-time in my job at 12 months, but that was the only option available to me’ (P1).

For some participants, the reduced working arrangements were considered by their employer as a very temporary transition back to the workforce following a period of maternity leave and there was pressure to increase their working hours. As one participant explained:

I just got a phone call today basically saying make up my mind, I have to do the three shifts now or the job not at all. I’ve been doing four shifts a fortnight... they’re now saying it’s just too difficult with the roster. (P16)
Another participant similarly noted: ‘there was pressure for me, because of my level, to do more days’ (P9).

Other participants spoke of their feelings of insecurity about the potential or continued availability of part-time working arrangements. One participant noted:

The job security is appalling, I’m just a casual, I don’t have any job security [laughs] other than do a good job and get good word of mouth. I definitely would love more job security, to know that when my kids go to school, that if I wanted to pick up a few more hours, that I would have that, or at least that I would have a job in two years’ time, that would be wonderful. But at the moment, you sort of take what you can get. (P2)

Another parent-only carer participant explained:

That’s what I’m planning, maybe work two or three days. And I’ve mentioned that to my Principal and he’s like: ‘oh yeah, if that’s available’. He makes no promises. And I don’t think he really likes the idea of job-sharing, even though it’s far more child-friendly for mothers and even fathers if they want to stay home for a couple of days with their children... (P13)

For a minority of participants, the strong initial hesitation they had experienced from their workplace led to support for their part-time working arrangements, as the following excerpts show:

I’m sure they still have a few whinges behind our back... But I’ve been quite surprised. Because the whole process of even applying for it, I felt that they weren’t really on board, and didn’t want to know anything about it. And I don’t think they did, because they hadn’t done it before and didn’t know how to, and my bosses just didn’t know how to deal with it... But I think [manager] has come round. (P8)

When I started doing it, there were less of us who were [part-time], so people would find it very confusing, you know, what days are you in, you know, leave things for you that you couldn’t do because you weren’t there. I think they’re getting more used to it... (P22)

Many research participants reported that there is a general reluctance within society and within workplaces to embrace non-standard work. As one participant, in a statement resonant with the sentiments of many, reflected: ‘I think there’s lots of other options, but I think employers aren’t interested really, they just want somebody to fit their mould’ (P19). This was affirmed by focus group participants, who stated that there was a general reluctance to employ two part-timers in place of one full-time worker. Such reticence was considered particularly
pronounced in male-dominated industries, as one focus group participant explained: ‘I think there’s obvious resistance, particularly in male-dominated areas, for any of that to come up because it so advantages them [male managers]’ (FGP6).

Not feeling ‘very valued’ – the precariousness of non-standard work

The undervaluing of non-standard work was a significant issue raised by many research participants. As one participant explained:

If and when I go back to [employer], I think it will continue to be a source of conflict for me... That’s my sense of what would probably realistically happen, them paying me at my level but me working below my level, in a random job a couple of days a week. (P14)

Another participant similarly commented:

The director of the unit, another mother, commented on how part-time staff are never allowed to act in senior positions... And certainly you never get offered project work or any of the extra things that come along. (P16)

A further participant explained:

If you didn’t want to do the full-time role in the half-time hours, you just get the really boring tasks... No long-term work, just what can be done today. Because no one’s bothered to put any thought into it. (P10)

The problems associated with non-standard work are heightened by the difficulties many workers face in light of the disproportionately high workload associated with non-standard work in comparison with the full-time benchmark. The next section discusses this issue.

‘Trying to do a full-time role in part-time hours’ – the hard work of non-standard work

The research participants considered that many part-time workers worked well beyond their contracted portion of a full-time role. For some participants, this was due to expectations of their employer and colleagues, as the following comments show:

People thought I was in full-time work and I just had to do twice as much in the same amount of time, and that was something we were always saying, you had to do twice as much in the same amount of time. (P10)
People who job-share actually do a lot more work, because they’re only there for a couple of days. (P13)

This perception also emerged from focus group participants, as one participant explained:

FGP7: That’s actually a problem with being part-time. Professionally when you work four days and you’re paid four days, like my husband, everybody expects five days of work. So that’s not a good thing.

For others, the work role was not reasonably reduced to accommodate the worker’s working hours, as one participant reflected:

I do try not to do it, but I do find being part-time, maybe particularly because I used to be full-time, you do end up trying to do a full-time role in part-time hours. If you’re full-time, I don’t think you realize how much harder it is to be part-time. You just think you just do half the job, you’re there half the time, but you know, any meeting that you have is a percentage of your time. We do a case-load sort of model, we do half the cases, but because we lose more time due to each meeting, each training day, we end up running faster as part-time staff... And all the readings and continuing education that you need to do is all the same, you just have to squeeze it into half the time... (P22)

For some, the hard work of a part-time position resulted from their own work ethic and commitment to their role. This is demonstrated by the following participant insight:

It’s that professional responsibility that gets caught in your own mind. Prior to having a child you’re used to being able to do all the hours that you need to do and give it your whole self. (P16)

Another participant reflected that it was often challenging to accept the reduced scope of work:

From a personal point of view, you’re used to being 110% in your job and then all of a sudden you’re only there two days, you just can’t have the same expectations on yourself as you used to... All the things that have built up because I work on a national basis and people don’t always know or they don’t look at the out-of-office – then I feel like, I haven’t got back to you, it wasn’t that I’m ignoring you. Which makes you feel like you’re not doing a great job. (P17)

In the focus group, the risks associated with not working beyond the scope of a part-time working role were discussed: ‘I think if you don’t work overtime you’re really at risk of being told to find another job, because the expectation is then that you would do your four hours and get paid two and a half’ (FGP5).
A special case: shift-workers

A small minority of research participants had or were at the time of the interview working shift-work and were able to provide some insight into shift-work as an option that may facilitate parent-only care. The research findings are that, while potentially beneficial for parent-only carers, particularly those shift-parenting, shift-work has its unique set of challenges. Shift-work is generally characterized by a lack of predictability in working hours between rosters. This can create difficulties arranging care, as one shift-parenting participant explained: ‘the thing with shift-work is it’s very difficult [making care arrangements that] cope with the flexibility required with shift-working... there’s no two weeks the same’ (P16).

Yet some participants noted that, with predictability, shift-work could be an attractive option for parent-only care families, particularly those shift-parenting. The following comment is representative of the participants who mentioned shift-working as a work option that could accommodate parent-only care:

I think there needs to be a whole new area of work opened up that caters for people that have young children, whether it be shift-work or I don’t know... But there’s really very little [that suits parent-only carers] available. (P6)

Discussion

In summary, the research findings reveal that unpaid and paid maternity leave are significant developments, but access to these benefits is not universal; that flexibility in working arrangements is highly desirable but limited in its availability; and that non-standard working arrangements are also desirable, but problematic in the ways in which they are set in opposition to the ‘standard’ working arrangements, ie those that assume the unencumbered, full time worker.

There is a significant body of theoretical literature analysing and reflecting upon the body of statutory and common law and industrial instruments that cumulatively establish the legal entitlement to the relevant types of leave and other working conditions potentially available to parents in Australia. The discussion will draw upon this rich body of literature in discussing the
findings of this research study. Before engaging with the legal framework and the literature to explore the empirical findings on the industrial response to the work-family ‘clash’, this chapter will first briefly consider the role of trade unions as they are a central part of the industrial framework in Australia of relevance to the struggle for equality for all workers, including parent-only carers.

**Enterprise bargaining and collective representation as a means of asserting and protecting the rights of parents who work**

A core facet of the right to freedom of association, central to the charter of the International Labour Organisation (ILO) and recognized as a fundamental human right, is the right of employers and workers to form and freely join organizations. The collective representation of workers by trade unions has a long history in Australia, with the roles of trade unions including initiating and being a party to proceedings for the enforcement of member rights and entitlements in the industrial relations commissions. The conciliation and arbitration of claims traditionally resulted in awards that formed the ‘safety net’ of minimum working conditions. Unions have been the guardian of these standards, monitoring and regulating their consistent enforcement, which has been important in light of the historically weak enforcement role played by the government. While the role of trade unions was traditionally strongly legitimated and supported by law, it has been substantially weakened in recent years, both

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2 Pursuant to this right, workers have long sought out membership of trade unions as a collective voice for their rights at work. The counterparts of trade unions are employer organizations, membership of which is considered particularly important by smaller employers to counter the power of large federal unions in negotiations and dispute settlements: Breen Creighton and Andrew Stewart, *Labour Law*, 5th edition (The Federation Press, 2010), 158, 663.

3 *Jumbunna Coal Mine, No Liability v Victorian Coal Miners Association* (1908) 6 CLR 309.

4 Creighton and Stewart describe the ‘symbiotic’ relationship that has traditionally existed between unions, compulsory conciliation and arbitration and the award system in Australia: Creighton and Stewart, above n 2, 668.


7 Creighton and Stewart, above n 2, 669.
legislatively\(^8\) and as a result of unions’ declining membership and influence.\(^9\) However, trade unions retain a significant role as a voice for workers and help to counter the power imbalance inherent in the employer-worker relationship.\(^10\)

In the work and family realm, opinion is divided on the achievements of trade unions in protecting and advancing the needs of parents in the workforce. Through the test case mechanism, unions can be credited with the introduction of important family-friendly working provisions.\(^11\) Fundamental to all families is the ability of a worker to enjoy ‘decent’ work conditions, such as a liveable wage, employment security, collective representation and regulated hours – the safety net of award conditions is thus family-friendly.\(^12\) However, the subject of the union’s protection has traditionally been of the ‘breadwinner’, and the union movement has not demonstrated any significant interest in moving the employment model beyond the breadwinner model. To the detriment of mothers, the trade union movement has historically been a masculinist movement that has paid minimal attention to the rights of women in the workforce.\(^13\) Indeed, the trade union agenda has historically been consistent with separate spheres philosophy, to the extent that trade unions have traditionally opposed, in principle, part-time work arrangements and generally failed to advocate improved conditions for non-standard workers.\(^14\) It was through industrial arbitration that the standard rate for

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\(^8\) It was significantly curtailed under the conservative Howard government and its Work Choices amendments, which stripped the unions of the bulk of their regulatory power, transferring it to the federal government. Under the \textit{Fair Work Act 2009} (Cth), trade unions recovered some of their regulatory capacity yet the federal government, through the Fair Work Ombudsman, retained regulatory supremacy, which is a significant shift from the pre-Work Choices industrial landscape: Hardy and Howe, above n 6. Work Choices also stripped the Australian Industrial Relations Commission (AIRC) of its capacity to arbitrate test cases (thus removing this standard-setting power from trade unions), as well as deeming that existing standards no longer formed the safety net against which contracts of employment were tested: \textit{State of New South Wales & Ors v Commonwealth of Australia} [2006] HCA: Smith, above n 5, 704).

\(^9\) Creighton and Stewart, above n 2, 156-7, 671.

\(^10\) This is under the assembly of the Australian Council of Trade Unions.

\(^11\) Chapman, above n 5, 465.

\(^12\) Smith, above n 5, 703.


\(^14\) Rosemary Owens, ‘Women, “Atypical” Work Relationships and the Law’ (1993) \textit{19 Melbourne University Law Review} 399, 408; C Lever-Tracy, ‘Union Strategy in Relation to Part-Time Workers’ in Mark Bray and Victoria Taylor (eds), \textit{The Other Side of Flexibility: Unions and Marginal Workers in Australia} (ACIRRT, 1991), 75. As Creighton and Stewart note, the trade union movement held a ‘mixture of hostility and ambivalence’ towards part-time and
‘women’s work’ was set at half that of the rate for ‘men’s work’, playing an important role in
the construction of gender norms in the workplace.\footnote{Stephen Robertson in Rae Frances and Bruce Scates (eds), \textit{Women, Work and the Labour Movement in Australia and Aotearoa/New Zealand} (Australian Society for the Study of Labour History, 1991), 30, citing Stuart Macintyre and Richard Mitchell (eds.) \textit{Foundations of Arbitration: The Origins and Effects of State Compulsory Arbitration 1890 – 1914}.} For parents seeking to integrate work and family commitments, collective bargaining has been largely unhelpful. This is exemplified by the fact that only 14 per cent of Enterprise Bargaining Agreements registered between 1995 and 2000 and 12 per cent of Australian Workplace Agreements contain work-family provisions, with the incidence of these provisions declining in recent years.\footnote{Barbara Pocock, ‘Australian Mothers in 2004: Awaiting a Decent Work/Care Regime’ in Patricia Grimshaw, John Murphy and Belinda Probert (eds) \textit{Double Shift: Working Mothers and Social Change in Australia} (Circa, 2005), 17.}

There have been some exceptions to the unions’ general disinterest in work-family affairs, particularly in recent years. The historical ambivalence towards non-standard employment has changed in the face of the reality of the increasing casualisation of the workforce.\footnote{Creighton and Stewart, above n 2, 202.} The \textit{Family Provisions Case 2005}\footnote{Decision PRO82005, 8 August 2005.} established the ‘right to request’ part-time work following a period of maternity leave. In the late 1990s and early 2000s, unions successfully ran test cases to establish the right for casuals to request permanent or ongoing employment.\footnote{Re Metal, \textit{Engineering and Associated Industries Award 1998 – Part 1} (2000) 110 IR 247; Clerks (SA) Award Casual Provisions Appeal Case (2002) 118 IR 241 and 274; \textit{Secure Employment Test Case} (2006) 150 IR 1 (NSW); Creighton and Stewart, above n 2, 202.} Some unions have also been behind the push for the establishment of paid parental leave,\footnote{Unions representing workers in the finance, manufacturing, local government and education sectors have been particularly active in this endeavour: Barbara Pocock, ‘Work Life “Balance” in Australia: Limited progress, dim prospects’ (2005) 43(2) 198, 206.} while others have actively sought to limit working hours\footnote{For example, the Electrical Trades Union in Victoria: ibid.} and increase worker autonomy over rostering.\footnote{Notably, in the health sector: ibid.}

Overall, however, the potential for unions to increase their influence as regards work-family issues is significant, as Williams asserts: ‘[t]he union movement often mistakenly views work-
family issues as a luxury item. These are core union issues’.  

Situating the empirical findings within an understanding of the legal framework establishing and protecting parental and family leave entitlements in Australia

One of the core industrial responses to addressing the clash between work and parenting was the introduction of various leave entitlements, including parental leave, carers’ leave and sick leave that can be utilised when caring for a sick child. The leave entitlements of parental and carers’ leave are two of the main work-family industrial measures achieved with support from trade unions in the industrial framework.

Parental leave, specifically provided to mothers and fathers as maternity and paternity leave, is a set period of leave sanctioned by the employer to enable the parent to care for an infant upon their birth or adoption. It has two limbs: unpaid leave, where the worker’s extended absence from the workplace is approved and their position guarded for that period (there are pre-conditions to qualify for this employment protection); and paid leave, where the employer pays the worker their ordinary wage for a set period (usually less than the total period of approved unpaid parental leave), and/or the eligible worker is paid under the recently-introduced commonwealth government Paid Parental Leave scheme.

Unpaid parental leave

The ability to take a leave of absence from the workplace to birth and/or nurture an infant with the security of a job (and income) to return to is recognised as a fundamental requirement for

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24 Following Australian ratification of the International Labour Organisation’s Convention No. 156, domestic legal initiatives were taken to implement the convention, including the introduction of the Family Leave Test Case in November 1994 and the Personal/Carer’s Leave Test Case – Stage 2 in November 1995. These determinations now constitute the core of the Australian Fair Pay and Conditions Standard. The AFPCS is significant in addressing the issue of participation, particularly by mothers, in the paid workforce. It does this by making provision for maternity and paternity leave, which can be accessed equally by mothers and fathers, and by acknowledging, albeit through very limited means, the care responsibilities parents retain subsequent to the taking of such leave.

25 The *Paid Parental Leave Act 2010* (Cth) creates the right to payment of Paid Parental Leave by the Commonwealth Government to eligible parents.
all parents. It is critical in creating a base level of security, in terms of the future career and financial prospects of the parent and their family, and in maintaining a connection between the parent and the labour market. While it does not alleviate the financial pressure associated with the temporary loss of income an unpaid absence from work necessarily creates, it can provide a modicum of security and peace of mind for parents at a vulnerable point in their lives. Unpaid parental leave is thus critical as a baseline security measure for parents.

The importance of parental leave has been recognized in Australia, with a basic entitlement to 12 months unpaid leave established by various measures, commencing with maternity leave and followed by paternity leave and leave for adoptive parents. The right to unpaid parental leave was legislatively enacted in 1993 and in 2001 the entitlements were extended to casual employees with at least 12 months continuous service. In 2005, the right to request an extension of unpaid parental leave for a further 12 months (a total of two years) was created, which is the current legislative entitlement.

However, an increasing number of workers are denied the basic security offered by unpaid parental leave because they are situated in casual and precarious employment. While the extension of unpaid parental leave to long-term casuals helped to lessen the demarcation between permanent and casual workers and increase equality, this has been overshadowed by

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26 This is the stated government rationale underpinning parental leave. See for example the federal government media release accompanying the introduction of the paid parental leave scheme in January 2011: Jenny Macklin, Media release: Australia’s first national paid parental leave scheme starts (Australian Government, Department of Families, Housing, Community Services and Indigenous Affairs, 2011).
27 The Maternity Leave Test Case 1979; Re Electrical Trades Union of Australia – Application to Vary Metal Industry Award 1971 re Maternity Leave (1979) 218 CAR 120.
28 Parental Leave Case (1990) 36 IR 1; 39 IR 344.
29 Adoption Leave Test Case (1985) 298 CAR 321.
30 Division 5, Part VIA and Schedule 14 Industrial Relations Act 1988 (Cth).
31 Parental Leave Casual Employees Decision (2001) 50 AILR 4-452.
32 Parental Leave Test Case 2005 (2005) 143 IR 245. This has since been replicated in the Fair Work Act.
34 To be eligible for parental leave, casual employees must have 12 months of continuous service: Fair Work Act 2009 (Cth), s 67(2). The Work Choices reforms significantly increased the margin of workers on the fringes of the labour market by increasing the proportion of workers in casualised and precarious employment.
the rapidly increasing casualisation of the workforce,\(^{35}\) which renders many workers outside the scope of this protection. That parental leave is not available to many parents as a consequence of their casual employment status or because they have changed employment within the 12 months preceding the birth of their child is acknowledged in the literature, with calls for the introduction of an adequate and consistent regime of parental leave for all Australians.\(^{36}\) This is particularly so when considering that many casual workers, as a result of employer manipulation or their employment through arrangements such as labour-hire firms, are denied classification as long-term casuals\(^{37}\) and thus the protection of unpaid parental leave. The empirical findings, set out above, show that the majority of the research participants were aware, and appreciative, of their entitlement to access a period of unpaid maternity leave, yet a number of participants were not eligible to take this leave as they did not meet the eligibility requirements (primarily due to their ‘casual’ work status or because they worked in an industry where frequent changes of employer were standard).

**Paid parental leave**

The introduction by the federal government of paid parental leave from 1 January 2011\(^ {38}\) was a widely welcomed initiative, as Australia’s lag to implement universal paid parental leave was the subject of criticism.\(^ {39}\) Paid maternity leave is critical to equality as, without the paid


\(^{36}\) Pocock, above n 16, 17-22; Owens, Riley and Murray, above n 35; Creighton and Stewart, above n 2.

\(^{37}\) Owens, Riley and Murray, above n 35, 190.

\(^{38}\) Pursuant to the *Paid Parental Leave Act 2010* (Cth).

component of the leave, the ability to afford time away from the workforce is dependent on
independent resources or financial support.\textsuperscript{40} The leave is paid for 18 weeks, quantified at the
National Minimum Wage, with a threshold test based upon the applicant’s labour market
commitment over the 13 months preceding the leave.\textsuperscript{41} It does not displace private parental
leave schemes, so some workers are entitled to access payments under both the government
and employer schemes.\textsuperscript{42} In its present form, the paid parental leave scheme is not universal or
equitable – contingent on their employment status, recent employment history and who they
are employed by, workers may be entitled to no parental leave, government-funded Paid
Parental Leave or both government-funded Paid Parental Leave and employer-provided paid
parental leave.

While the introduction of government-funded Paid Parental Leave has benefits for many
parents, there remains a great deal to be done to address the difficulties workers face after
becoming parents. The length of the leave (18 weeks) falls eight weeks short of covering the
minimum period of exclusive breastfeeding recommended by the World Health Organization
and by the state and federal governments (26 weeks) and is scant when compared with other,
particularly European Union, countries.\textsuperscript{43} The introduction of the scheme has not been
accompanied by other measures that could help to integrate parents of young children into the
workplace on their return to work. As Owens et al note, it has not been linked to other key

\textsuperscript{40} Barbara Pocock, \textit{The Labour Market Ate my Babies: Work, Children and a Sustainable Future} (The Federation
Press, 2006), 219. Prior to its introduction, Australia was the only country other than the US without a
government-funded paid parental leave scheme.

\textsuperscript{41} Eligibility for paid parental leave is assessed on the basis of time worked. To be eligible, the applicant must have
worked in paid employment for at least 330 hours over ten of the 13 months prior to the birth or adoption of the
child (just over an average of one day per week), with no more than an 8-week work gap during this period. Note
that the scheme does not, in itself, create the right to any absence from the workplace, it operates in conjunction
with the right to unpaid parental leave established by the test cases and adopted in the \textit{Fair Work Act}, thus
bridging labour regulation and social security policy. This is potentially problematic, as eligibility for paid parental
leave is assessed on the basis of time worked, with no requirement of continuity of service, whereas unpaid
parental leave requires a period of 12 months service to the same employer – some workers may thus have the
option of seeking unpaid leave (which in the absence of an express right, would be subject to the employer’s
discretion), or resigning: Creighton and Stewart, above n 2, 393.

\textsuperscript{42} It can be received in conjunction with any additional paid parental leave offered by individual employers (which
is not compulsory but considered advantageous for marketability and staff retention by many companies).

\textsuperscript{43} This is relevant when noting the importance of breastfeeding to parent-only carers – see Chapter 4.
facets of labour law legislation,\textsuperscript{44} most notably to the commitment made by the \textit{Fair Work Act} to equal treatment for women.\textsuperscript{45} Further, those on parental leave beyond the paid period of the leave must be dependent on the goodwill of a partner to provide for them and their child, at least temporarily. This means that the income earned by the carer prior to having children cannot be relied upon as continuing income, thus trivializing the importance of women’s work to the family economy.\textsuperscript{46}

By limiting eligibility for the scheme to those who have met the work threshold test, the scheme excludes mothers on their second or subsequent birth or adoption who have not returned to the labour market in the interim or those not meeting the minimum quantum of work required; this is significant in light of the many workers presently underemployed not by choice but because of an inability to attain suitable work,\textsuperscript{47} many of whom are mothers. Upon the scheme’s introduction, the federal government estimated that it would cover approximately 126,000 out of approximately 285,000 new mothers per annum.\textsuperscript{48} The scheme only selectively pays, and thus only partially addresses the documented problems associated with the failure to provide paid parental leave.\textsuperscript{49}

Further, the scheme fails to facilitate the return-to-work of parent-only carers. As documented above, most participants did not return to their previous employment after the birth of their child irrespective of whether parental leave was provided. While there is research establishing a strong link between paid maternity leave and workplace retention rates,\textsuperscript{50} such research does

\textsuperscript{44}For example, the duration of time spent on parental leave remains outside the periods of time recognized as continuous service for other purposes under the Fair Work Act: Owens, Riley and Murray, above n 35, 382.
\textsuperscript{45}Owens, Riley and Murray, above n 35, 382.
\textsuperscript{46}Jan Gardiner, ‘Putting Sole Mothers in their Place: The Normalising Discourse of Social Policy’ (1999) 34 \textit{Australian Journal of Social Issues} 43; Berns, above n 39.
\textsuperscript{47}Anne Summers, \textit{The End of Equality: Work, Babies and Women’s Choices in 21\textsuperscript{st} Century Australia} (Random House, 2003), 59.
\textsuperscript{48}Explanatory Memorandum to the Paid Parental Leave Bill 2010 (Cth), Regulatory Impact Statement, 13.
\textsuperscript{49}It is documented to result in higher depression among mothers, higher infant mortality, lower birth weights of infants, reduced breast-feeding and fewer preventative health care visits: J Waldfogel, \textit{Social Mobility, Life Changes, and the Early Years, CASE Paper 88} (London School of Economics, Center for Analysis of Social Exclusion, 2004).
\textsuperscript{50}In 2003, the Equal Opportunity for Women in the Workplace Agency Annual Survey found that the retention rate of female employees that had taken maternity leave was 67% at organisations where paid maternity leave was
not incorporate the perspective of parent-only carers. For the research participants, parental leave did not facilitate the integration of parent-only care and work they sought, during or after the leave. Even more generous terms of parental leave did not enable the provision of parent-only care for the first three years of a child’s life.

While some writers suggest that a more generous scheme of paid parental leave is the way forward, particularly when coupled with quality part-time work and quality, affordable and accessible childcare, this is not a solution for parent-only carers. First, it fails to provide them with meaningful, stimulating, work during the period of their child’s early childhood. Second, it does not address the effects of a sustained absence from the labour market on parents’ current and future employability. The assumption that parents’ caring responsibilities can be managed by a few brief absences from the labour market has profound implications for parent-only carers. The literature documents that absence from or scaled down participation in the labour force damages women’s advancement within the organization and ultimately renders them less employable. It can also create hostility and resentment in the workplace. There is an assumption that those who utilize longer periods of leave than medically required to recover from birth are not ‘committed’ to their careers or workplaces and become ‘out-of-touch’ with the workforce.

Finally, and most importantly for parent-only carers, seeking to resolve the intersection of work provided. This retention rate was only 56% at organisations where no paid maternity leave provisions were offered: <www.eowa.gov.au>

51 Two years of paid leave has been proposed by some commentators.
52 See for example: Pocock, above n 40, 17.
55 This is because parental leave is generally seen as a special privilege: Berns, above n 39, 4-5.
and parenting roles through temporary exclusions or absences from the workforce is a limited measure that does not challenge the structural dominance of the separate spheres model. As Howe et al note:

Leave rights are certainly important and may assist in times of acute need; however, by definition leave cannot provide for chronic needs in co-ordinating both work and life obligations because a period of leave necessarily implies a period of non-work.

Parental leave is a modern addition to the male breadwinner model that does not change its core: while at work, mothers are unencumbered workers with childcare providers filling the traditional caring role; while on maternity leave, women slot back into the role of dependent wife and mother. As Owens et al note:

[Int]hough taking leave, even paid leave, is not so much a balancing of work and family conflict, but avoidance of it through absence from work in order to care for family. Thus in practice, work and family conflict has generally been resolved on the backs of (usually female) workers.

Parental leave, intended as a ‘solution’ to the documented problems for parents of young children in terms of workforce participation, has failed to facilitate workforce participation by parent-only carers of young children. The other leave entitlement which is aimed at lessening work-family conflict is carer’s leave, which, as this section now discusses, is also futile in enabling the integration of parenting and work.

**Carer’s leave**

Personal carer’s leave is another measure conferred by federal awards, now enshrined in Division 7, Part 2-2 of the *Fair Work Act 2009* (Cth), which enables workers a brief paid absence from the workplace to care for their dependents, a total of ten days per annum. Carer’s leave, like sick leave, differs from to parental leave in that it is a set annual quantum of days of leave.
that may be utilised by the worker without notice to deal with a family emergency. Some workers are also able to elect to use some or all of their allocated personal sick leave entitlement to care for a sick child or other dependent. This is clearly of very scarce benefit for parent-only carers. As Owens et al note, parents who take leave to care for a sick child are left with less leave to utilize in circumstances where they themselves may be unfit to work. There are also workplace cultural issues, particularly in the wake of the attitudinal changes brought about following WorkChoices, that have left many workers, particularly low-paid women workers, feeling vulnerable and thus hesitant to utilise sick leave, in instances of their own ill health of where conversion as carer’s leave is permitted.

Thus, leave entitlements have their advantages but, as the discussion has shown, offer little structural challenge to the ingrained problems associated with the dominant separate spheres model and thus are ultimately unhelpful for parent-only carers. This chapter will now consider the efficacy of the second industrial measure, flexible working arrangements. Flexible working arrangements differ from parental leave in that they are designed as an ongoing measure to help to facilitate the management of workers’ work and caring responsibilities, rather than the hiatus from the workforce that parental leave offers.

**The documented difficulties with the ‘flexible working arrangements’ revolution**

As the empirical findings demonstrate, and the literature documents, ‘flexible’ working arrangements have not offered a net benefit to workers. Instead, flexible working arrangements have provided a lawful basis in many instances for employers to demand that workers work conditions that best suit the needs of the business, including those brought about

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61 Owens, Riley and Murray, above n 35, 456.
62 Jude Elton, Janis Bailey and Marian Baird, et al., *Women and WorkChoices: Impacts on the Low Pay Sector* (Centre for Work + Life, Hawke Research Institute for Sustainable Societies, University of South Australia, 2007), 57. The *Workplace Relations Act 1996* (Cth), as amended by the *Workplace Relations Amendment Act 2005* (Cth), is popularly known as WorkChoices, and will be referred to as ‘WorkChoices’ in this thesis.
63 Owens, above n 39, 425; Berns, above n 39, 70; Monica Dux and Zora Simic, *The Great Feminist Denial* (Melbourne University Press, 2008), 106-108.
by globalisation,\textsuperscript{64} rather than those that genuinely assist the worker.\textsuperscript{65} This was exacerbated by WorkChoices, which allowed employers increased ability to dictate working conditions that suited their corporate interest, while setting a new standard of punitive attitudes towards workers seeking flexibility to manage their caring responsibilities.\textsuperscript{66} ‘Flexibility’ of working hours and conditions was employer-centric. Elton et al document ‘the climate-shifting effects of WorkChoices in reducing worker say and increasing effective employer prerogative about working time arrangements’.\textsuperscript{67} Houston states:\textsuperscript{68}

Despite political and social pressure for work-life balance, the drive for more flexible working is strongly related to the needs of employers. Within business, globalization and the new economy have resulted in changes in customer demands and expectations for access to goods and services 24 hours a day. Increasingly this means that organizations must operate outside the traditional nine to five structure. Therefore organizations have to employ people who are prepared to work flexibly outside traditional working hours. Flexible working is popularly viewed as a means of increasing work-life balance for the individual, however, from an organizational perspective the benefits of flexible working may be related to non-standard contracts and the elimination of overtime payments, rather than greater work-life balance for employees.

Owens et al similarly note that ‘working-time flexibility often means long hours, a greater spread of working hours, and long-shift rosters, all of which have the potential to intensify work and family conflict’, with the regulatory system ‘not always responsive’ to this.\textsuperscript{69} Elton et al also report, based on the findings of their qualitative study into the effects of the WorkChoices legislative reforms on women in the low-pay sector, that control over working time and predictable hours are crucial issues for carers. They state:\textsuperscript{70}

The reduction in protections regarding working hours and lessening of constraints on forms of employment under WorkChoices and an accompanying ‘freeing up’ of the employment climate have enabled the employers of these workers to increase their flexibility in the use of labour at workers’ expense.

\textsuperscript{64} Rosemary Owens, ‘Engendering flexibility in a world of precarious work’ in Judy Fudge and Rosemary Owens (eds), \textit{Precarious work, women, and the new economy: The challenge to legal norms} (Hart Publishing, 2006), 329, 337-8; Owens, Riley and Murray, above n 35, 44.

\textsuperscript{65} Adams and Geller, above n 53, 434; Berns, above n 39, 74-5.


\textsuperscript{67} Ibid 53.


\textsuperscript{69} Owens, Riley and Murray, above n 35, 454.

\textsuperscript{70} Elton, Bailey and Baird, et al, above n 62, 51.
Elton et al found that carers are one of the groups most disadvantaged by the WorkChoices reforms.

‘Flexible’ working arrangements, as currently constituted, might appear to aid parents by broadening the range of hours that can be worked as ‘core’ or ‘normal’ working hours. They are recognized by international law, expressly adopted in domestic law, and have been officially sanctioned in Australia since 1988, on the basis that flexibility promotes industrial efficiency. Recently, consistent with Labor’s Forward with Fairness policy, the Fair Work Act 2009 (Cth) introduced the ‘right to request’ a change in working arrangements, whereby parents or carers of preschool aged children or children with a disability with 12 months of continuous service to an employer may request flexible work arrangements until their child reaches school age, with employers only entitled to refuse such a request ‘on reasonable business grounds’. While this provision is important in bringing the caring responsibilities of workers to the direct attention of employers, this right is very weak for a few reasons. Firstly, it is limited to workers with 12 months continuous service to the same employer, which precludes many workers from accessing the right. Secondly, as Minow and Smith note, by limiting the right to parents and carers of pre-school aged or disabled children, it reinforces the assumption that such parents and carers are abnormal and in need of ‘special rights’ or ‘special privileges’, thus reinforcing existing separate spheres norms and potentially exposing this group

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71 Where standard hours at a particular workplace may have previously been from 8.30am to 5.00pm, with hours worked outside these hours constituting overtime, the advent of flexible working arrangements may extend such hours so that 6.00am to 10.00pm are classified as standard hours.
72 ILO Workers with Family Responsibilities Convention 1981 (No 156), ratified by Australia in 1990: Creighton and Stewart, above n 2, 385.
73 Industrial Relations Reform Act 1993 (Cth), section 93A expressly adopts the Family responsibility Convention principles, now expressed in s 3(d) of the Fair Work Act 2009 (Cth).
74 In August 1988, the Australian Industrial Relations Commission set out the ‘Structural Efficiency Principles’ in the National Wage Case, which initiated the idea that a more flexible workplace would promote industrial efficiency. This has been officially endorsed in Australia: Owens, above n 14, 405.
75 Section 65 Fair Work Act 2009 (Cth); Rudd, Kevin and Julia Gillard, Forward with Fairness: Labor’s Plan for Fairer and More Productive Australian Workplaces (ALP, 2007); Creighton and Stewart, above n 2, 386.
77 Section 65(2) Fair Work Act; Smith, above n 76, 570.
to backlash from other workers.\textsuperscript{78} Thirdly, the onus is on the worker to request flexible working arrangements, which is particularly problematic given that those likely to seek to utilize this provision are from historically marginalized groups. Finally, and most importantly, the right is not directly enforceable. While the legislation stipulates that an employer must not refuse a request for flexible working arrangements except on ‘reasonable business grounds’, no guidance is provided by the legislation as to what constitutes ‘reasonable business grounds’, and a refusal based on such grounds is not reviewable by Fair Work Australia or appealable to a court.\textsuperscript{79}

Kossek and Friede argue that, like other workplace diversity interventions, the government focus when seeking to implement obligations (such as those created by ratification of ILO conventions) is on the availability of formal workplace policies, with little attention accorded to their effectiveness and utilization and a lack of rigorous testing of policy effectiveness.\textsuperscript{80} They argue:\textsuperscript{81}

\begin{quote}
... managers and researchers should take into consideration not only the policies available for employees on paper, but also how those policies play out in the day-to-day lives of employees. Only by understanding the nature, availability, effectiveness, and social and cultural implications of policies will the true status of work-life within organizations be revealed.
\end{quote}

At present, the incidence of flexible working conditions in industrial agreements mirrors the sex segregation of the labour market, which Owens argues is the clearest indication that such agreements are simply reproducing, and reinforcing, law’s stereotype of the traditional worker.\textsuperscript{82} Importantly, there are no uniform requirements and the meaning of flexible working

\textsuperscript{78} Martha Minow, \textit{Making All the Difference: Isolation, Exclusion, and American Law} (Cornell University Press, 1990), 70-4; Smith, above n 76, 570. In Chapter 10, it will be argued that there are significant limitations with this approach to parents and carers more generally.

\textsuperscript{79} See sections 65(5), 739(2) and 740(2) of the Fair Work Act. For a critique of this right; see also Creighton and Stewart, above n 2, 386; Smith, above n 76, 569-572.


\textsuperscript{81} Ibid.

\textsuperscript{82} Owens, above n 39, 425; Owens, Riley and Murray, above n 35, 454. This is so notwithstanding Australia’s ratification of Convention 156 of the International Labour Organisation in 1990, pursuant to which the Federal Government undertook responsibility to foster an environment where those with family responsibilities have full access to employment opportunities, with services and facilities developed to meet the needs of parents: ILO 156,
arrangements thus differs depending on the employment instrument conferring the entitlement. The present vision of flexibility in the workplace is generally very limited, confined to calls for flexible start and finish times, job sharing, telecommuting or teleworking, purchased leave, career breaks, special leave and compressed hours. Such measures are of minimal help to parent-only carers. Owens et al note the lack of innovation common to family-friendly terms in industrial agreements. Even where the workplace agreement assures the worker ‘flexible and progressive work practices and reasonable changes in the way work is organized’, this can be devoid of substance. For example, in the landmark anti-discrimination case of Victoria v Schou, the Court found that such a provision did not require the state government employer to accommodate an employee’s request to work from home while her child was ill. As MacDermott and Owens explain, flexibility is now seen as critical to successful business image and is packaged in a rhetoric which emphasizes its ‘mutually beneficial work practices’, yet ‘the promise of flexibility has rung hollow’ for most workers.

Over the past decade, there has been a decline in collectively-bargained for working conditions and a sharp spike in precarious employment. The shift from a social/liberal concern with establishing and protecting worker rights and entitlements to a neo-liberal focus on market power and deregulation and the erosion of many of the protections offered under awards and

available from <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C156>; VandenHeuvel, Audrey and Australian Institute of Family Studies, When Roles Overlap: Workers with Family Responsibilities (Commonwealth Government, 1993), 10. While non-standard working arrangements are presently accepted in some industries, such as hospitality, cleaning and book-keeping, in many others employers appear to be operating under the false assumption that the majority of callings, including higher level professional roles, management, manufacturing work and clerical work, are not amenable to properly flexible working arrangements: Joan Williams, Unbending Gender: Why Family and Work Conflict and What to Do About It (Oxford University Press, 2000), 88.

81 Owens, above n 39, 425.
84 For example, a full-time week comprised of four long days, rather than five ‘standard’ days: Karen Mitchell, Careers and Motherhood Challenges and Choices: How to successfully manage your career through pregnancy, birth and motherhood (McGraw-Hill Australia, 2004), 155, 167-182.
85 Owens, Riley and Murray, above n 35, 454.
86 (2004) 8 VR 120.
88 Dux and Simic, above n 63, 106-108.
89 Labour law policy was historically concerned with ‘social protection’: Howe, Johnstone and Mitchell, above n 58, 307.
90 Howe, Johnstone and Mitchell, above n 58, 307.
agreements negotiated between trade unions and employers has enhanced the relative power of employers. This has been at the expense of many workers’ rights and entitlements. The protection of workers has taken a backseat to economic progress. This was most significantly affected by the Work Choices Act and many features of that legislation endure, notwithstanding its succession by the Fair Work Act. The Fair Work Act places a strong neoliberal emphasis on individual rights, rather than collective values, despite its move back towards a more collectivist system. The emergence of a regime of flexible and family-friendly working arrangements that are inconsistent in their scope and availability has thus been in the context of a decline of the basic pre-requisites for family security, notably a reasonable wage, decent working hours, employment security and collective representation.

Workplace cultural issues also significantly impact on a worker’s ability to access properly flexible working arrangements. Bona fide flexible work policies are often defeated or diluted in their implementation by cultural, social and organizational values and tensions. Even in circumstances where workers may be able to utilize flexible working arrangements to their advantage, the culture of the workplace may not permit the worker to utilize such arrangements without stigma, detriment to their career or sanction. Experience has shown

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91This peaked with WorkChoices, the industrial relations legislative package introduced by the Howard government. As its name suggests, it was marketed as offering an increase in the choices open to employees, with flexibility high on the agenda. The experience of the WorkChoices legislation was markedly different, it eroded the protective minimal standards previously statutorily guaranteed.
92Dux and Simic, above n 63, 106-108; Berns, above n 39, 79.
93Owens, above n 64, 329; Houston, above n 68, 2; Berns, above n 39, 79-80.
94Owens, Riley and Murray, above n 35, 150.
95Stewart, above n 33.
96Creighton and Stewart, above n 2, 717, 721-724.
99Adams and Geller, above n 53, 434; Gamble, Lewis and Rapoport, above n 98, 5; Kossek and Friede, above n 80, 623; Joan Williams, cited in Katherine Relf-Canas, ‘Babies in the boardroom: five women who brought their children to their jobs – with wonderful results! (2005) Mothering Magazine 58. Cannold notes that only 18% of men utilise flexible workings hours to balance work and family, despite that they are offered by 93% of companies surveyed, with 73% of Australian fathers not using any of the family-friendly provisions available to them: Cannold, Lesley, What, No Baby? Why Women are Losing the Freedom to Mother, and How They Can Get it Back (Curtin University Books, 2005), 270.
that the utilization of flexible work policies has been far from ‘cost-free’. As Thornton simply states: ‘while the firms talk the talk, they don’t walk the walk’. They are often ‘formally available but informally frowned upon’. It remains to be seen whether the right to request flexible working arrangements, discussed above, will be effective in heralding change in workplace culture or will be a theoretical right only.

For most workers, flexible working arrangements are thus not a realistic, helpful option at present. The restricted availability, limited scope and disincentives to use flexible working arrangements means that most workers are not able to access properly flexible working arrangements that can enable the integration of parent-only care and work.

Working from home (also called home-based work or, more traditionally, outwork), has burgeoned in recent times. Increasing globalization and technological development has facilitated working from home, particularly for knowledge workers who are able to easily provide the products of their work without geographical limitation. At the other end of the spectrum, increasing global consumption and demand for cheaper products have also led to an increase in the incidence of home-based work in the ‘traditional’ outwork industries of clothing

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103 In 2009, 24% of all employed persons performed some work from home, with 7.6% working only or mainly at home: Australian Bureau of Statistics (ABS), _Locations of Work, Australia, November 2008_ (ABS, 2009, Cat no 6275.0); Creighton and Stewart, above n 2, 204; Owens, Riley and Murray, above n 35, 178. As will be discussed in Chapter 10, self-employment is an option preferred by many research participants, and many parents generally, as increasing autonomy, the likelihood of proper flexibility and reducing the interference of work on family life: Jennifer Baxter and Matthew Gray, ‘Paid Work Characteristics of Mothers with Infants’ (2006) 74 Family Matters 33, 39, 41; Williams, above n 82, 83. While the ability to balance care-giving with work is not documented as a primary reason for working from home, the statistics suggest it is a covert factor motivating home-based working arrangements: Four per cent of home-based workers cite childcare or family responsibilities as the primary reason for working from home. However, it is interesting to note that the highest proportion of home-based workers are women with school age or younger children: Australian Bureau of Statistics (ABS), _Australian Social Trends – Paid Work: Working from Home_ (ABS, 2002); Owens, Riley and Murray, above n 35, 178-9.
104 Medical professionals, information technology professionals, accountants and publishers are but a few examples: Creighton and Stewart, above n 2, 204; Owens, Riley and Murray, above n 35, 178.
and textile manufacture, assembly and packaging and food preparation. The limitations and vulnerabilities associated with this form of outwork endure. In both scenarios, corporate interest in reducing overhead costs and meeting client demands in an around-the-clock global market has heralded the increase in home-based work in certain sectors of the market. In other areas, the traditional employer resistance to approve home-based work remains, predominantly driven by the desire to retain active control over the worker’s working time and occupational health and safety considerations pertaining to the employer’s duty of care to the worker. There remains a reluctance on the part of employers to grant workers the ‘right’ to work from home, with working from home an employment ‘perk’ at the discretion of the employer, able to be revoked at any time.

Outside of ‘traditional’ options such as working from home, there are few properly flexible working arrangements. Jacobs and Gerson argue that most workers want truly flexible working arrangements, with flexibility and autonomy even more important than overall working time in managing work and family commitments. While acknowledging the powerful ‘magnet’ of the workplace, they contend most workers strive for more ‘flexible and fluid options’ for integrating work and family life. Neil et al concur, stating:

Extensive experimentation with flextime work schedules points to the superiority of no

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105 Owens, Riley and Murray, above n 35, 178.
106 This is so notwithstanding that the status of outworkers as employees, not independent contractors, has not been statutorily clarified: see for example: Industrial Relations Act 1999 (Qld), Sch 5, Industrial Relations Act 1996 (NSW) s 5(2)(d); Fair Work Act 1994 (SA) s 5. As Owens et al note, home-based workers often lack independence and autonomy to dictate their amount of work and are often required to provide their own equipment: Owens, Riley and Murray, above n 35, 179. Creighton and Stewart, above n 2, 204-205 also discusses the vulnerabilities and problems for outworkers in particular industries, and the legislative safeguards that have been introduced in, inter alia, Queensland to counter problems outwork can create for the contractual employment relationship.
107 Owens, Riley and Murray, above n 35, 178.
108 Creighton and Stewart, above n 2, 456-7; Owens, Riley and Murray, above n 35, 184.
109 Creighton and Stewart, above n 2, 204; Owens, Riley and Murray, above n 35, 184; State of Victoria v Schou [2004] 8 VR 120.
111 Jacobs and Gerson, above n 100, 158.
particular alternative schedule, but rather to flexibilities associated with choice of schedule and the ability of employees to adapt work schedules to family needs.

**The flexible working arrangements model does not challenge the dominance of the separate spheres ideology**

Like parental leave, flexible working arrangements as presently constituted do not challenge separate spheres ideology. As Jacobs and Gerson explain:  

> We thus find that workers perceive a trade-off between generous family-friendly policies and opportunities for advancement. Mothers and fathers alike fear that family-friendly workplace policies come with significant strings attached. As a result, workers feel that they are being forced to choose between family involvement and career building. These perceptions are well founded.

Flexible working arrangements provide ‘a way for companies to appear supportive of families without changing the fundamental structure’ of the standard week. They are predominantly perceived as assisting parents to work at the margins, without substantially challenging the traditional patterns of work based on the male breadwinner model. While flexible work policies can result in incremental organizational change, they do not challenge the core organizational structures that result in the marginalization of parent-only carers as they fail to confront the primacy of the unencumbered worker and the associated assumption that workers who do not adhere to this mould are less committed or competent.

In short, rather than supporting workers to structure working arrangements in a way that facilitates their caring arrangements, flexible working arrangements have, at best, blunted the sharpest points of the work-family clash for workers. At worst, they have provided a lawful basis for increasingly onerous employer demands.

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113 Jacobs and Gerson, above n 100, 6.
114 Ibid 160.
The problems with non-standard work in an age where non-standard work is now the standard

The incidence of non-standard (part-time\textsuperscript{117} and casual\textsuperscript{118}) working arrangements has increased dramatically in recent decades.\textsuperscript{119} While still categorised as ‘non-standard’ work against the full-time ‘standard’, the commonality of such arrangements now renders this a misnomer. Indeed, Owens et al argue that one of the effects of globalization has been that ‘non-standard’ or ‘atypical’ employment is now the norm.\textsuperscript{120}

Part-time and casual work status is frequently sought by parents, particularly mothers, returning to the workforce after childbirth in an endeavour to balance work and family responsibilities,\textsuperscript{121} with part-time work recorded by some scholars to result in reduced work-family conflict.\textsuperscript{122} For many parents, including some of those in this research, part-time working hours are helpful, increasing the space for caring responsibilities, and are more compatible with parent-only care than full-time work. That part-time work is undertaken by parents, predominantly mothers, to help reduce work and family conflict is well documented in the literature.\textsuperscript{123} Indeed, the dominance of part-time work is such that Fudge argues that a ‘new gender contract’ of one-and-a-half workers (a full-time male and part-time female worker) appears to be in place in Australia.\textsuperscript{124} It is thus unsurprising that mothers with young children

\textsuperscript{117}A part-time employee is commonly defined as a worker engaged to work less than the full-time ‘standard’ for the particular job or industry, although the ABS treats any worker who works less than 35 hours a week as a part-timer. On this basis, 30% of the workforce is presently estimated to be part-time: Australian Bureau of Statistics (ABS), \textit{Australian Labour Market Statistics, July 2010} (ABS, 2010, Cat no 6105.0); Creighton and Stewart, above n 2, 379-380.

\textsuperscript{118}Note that the term ‘casual’ in the context of describing a worker’s status remains a ‘colloquial and ill-defined expression, and can cover employees simply designated as such by an award or those deemed casual on the basis of the quantum of hours they work: Creighton and Stewart, above n 2, 198-201.

\textsuperscript{119}Casuals now comprise at least 20% of the Australian workforce, and a quarter of all employees: Australian Bureau of Statistics (ABS), \textit{Forms of Employment, Australia, November 2009} (ABS, 2010, Cat no 6359.0); Creighton and Stewart, above n 2, 201; Amanda Hosking and Mark Western, ‘The effects of non-standard employment on work family conflict’ (2008) 44 \textit{Journal of Sociology} 5.

\textsuperscript{120}Owens, Riley and Murray, above n 35, 44.

\textsuperscript{121}Jennifer Baxter, ‘Mothers’ employment transitions following childbirth’ (2005) 71 \textit{Family Matters} 11.

\textsuperscript{122}Hosking and Western, above n 119.

\textsuperscript{123}Pocock, above n 16, 17; Berns, above n 39, 10.

\textsuperscript{124}Owens, above n 64, 329, 339.
are within the groups of those with the highest rates of part-time and casual employment.\textsuperscript{125}

This is particularly so in Australia, where 44 per cent of women work part-time, compared with an OECD average of 26 per cent.\textsuperscript{126}

Despite the advantages that reduced working hours offer for parents in terms of balancing work and parenting roles, the empirical findings document a number of problems associated with non-standard working arrangements, including difficulties attaining part-time working status, the undervaluing and associated vulnerability and insecurity associated with non-standard work, the common disparity between employment status and workload and the systemic problems with non-standard work that pose particular difficulties for parent-only carers.

\textit{The precariousness of non-standard work}

The concerns of the research participants pertaining to the insecurity of non-standard work, particularly as regards its effect on future job security, are well founded. In the absence of an explicit guarantee to this effect in an industrial agreement,\textsuperscript{127} there is no entrenched right to convert from full-time to part-time work following the birth of a child, nor is there an associated right to later re-convert to full-time status.\textsuperscript{128} The difficulties reported by research participants in obtaining non-standard work are also recorded in the literature, with the lack of quality, legitimate part-time work options available noted as a significant problem.\textsuperscript{129} In their qualitative study of the effects of the WorkChoices amendments on low paid Australian women workers, Elton et al note:\textsuperscript{130}

Finding paid work that allows individuals to meet their care responsibilities is, however, not

\begin{itemize}
\item \textsuperscript{125} Baxter and Gray, above n 103, 35.
\item \textsuperscript{126} Pocock, above n 20, 203.
\item \textsuperscript{127} There has been an expectation on the part of legislators that workers will be able to negotiate rights such as paid maternity leave and leave to care for sick children through industrial agreements. However, this has not proved to be the case. For example, there remains limited paid maternity leave after almost a decade of bargaining under the WRA: Owens, above n 39, 423.
\item \textsuperscript{128} Owens, above n 39, 422.
\item \textsuperscript{129} Belinda Smith, ‘Time norms in the workplace: their exclusionary effect and potential for change’, (2002) 11(2) \textit{Columbia Journal of Gender & Law} 271; Owens, Riley and Murray, above n 35, 190.
\item \textsuperscript{130} Elton, Bailey and Baird, et al, above n 62, 103.
\end{itemize}
easy, especially if one is chasing ‘quality’ part-time work; i.e. jobs with predictable schedules offering permanent part-time work, decent pay and training and career opportunities. Whilst the stated aim of WorkChoices was to ‘...make it simpler to negotiate family-friendly working arrangements’, for many participants there was little evidence to suggest that this aim had been achieved. For them, juggling rosters and the working hours expectations of employers whilst endeavouring to provide quality care and quality time for their children was a serious concern.

Even where non-standard work is available for the duration required, there are significant structural problems associated with such work. Unfortunately, the diminishing effects of part-time work are not confined to a reduction in hours or reduced proportionate income. The vast majority of part-time and casual workers are situated in precarious employment. The situation is particularly tenuous for casual workers, who comprise a significant portion of the Australian workforce. Casual workers generally lack basic employment benefits such as leave entitlements and superannuation and are often precluded from accessing legal remedies in the event of an unfair termination or redundancy. The payment of casual loading is insufficient compensation for the associated loss of rights and security casual work entails.

Part-time workers, both individually and in the industries they dominate, are undervalued. Whereas the employment relationship traditionally promised security, new employment relationships are distinctive for their precariousness. Horizontal occupation segregation on the basis of gender perpetuates. The reduction in responsibility,

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131 Note that the term ‘casual worker’ is plagued with definitional difficulties, as ‘casual’ can have different legal meanings which do not necessarily mirror social meanings: O’Donnell, Anthony, “‘Non-standard” Workers in Australia: Counts and Controversies’ (2004) 17 Australian Journal of Labour Law 89; Community and Public Sector Union v State of Victoria (2000) 95 IR 54.
132 It is estimated that approximately 28 per cent of the workforce is employed on a casual basis: Australian Bureau of Statistics (ABS), Year Book Australia: Labour ‘Feature Article – Changes in Types of Employment’, Australian Labour Market Statistics (ABS, 2004, Cat no 6105); Australian Bulletin of Labour, above n 35.
133 Owens, Riley and Murray, above n 35, 190.
134 Owens, above n 14, 410-11.
135 Gambles, Lewis and Rapoport, above n 98, 46.
136 Workers lack job security, have little control over the labour and bargaining process (there is an absence of collective representation), lack regulatory protection, have few benefits and are paid low wages: Judy Fudge and Rosemary Owens, ‘Precarious work, women, and the new economy: The challenge to legal norms’, In Judy Fudge and Rosemary Owens (eds), Precarious work, women, and the new economy: The challenge to legal norms (Hart Publishing, 2006), 11-12. Berns argues that the earnings gender gap remains, linked to perpetuating occupational segregation and has widened: Berns, above n 39, 2-3.
137 This is segregation on the basis of occupational categories.
138 High level executive, managerial and professional jobs are still almost exclusively occupied by men.
139 Berns, above n 39, 2-3.
respect, income and entitlements that part-time work predominantly brings is well documented in the literature.\textsuperscript{140} Part-time work is generally perceived to be incompatible with holding senior positions\textsuperscript{141} or positions with significant responsibilities and career potential.\textsuperscript{142}

The devaluing of non-standard work is ironic given that, like flexible working arrangements, the rise in the incidence of casual working arrangements has been largely driven by corporate demand, to enable businesses the flexibility to respond cost-effectively to changes in market demand with fluctuating workforce sizes.\textsuperscript{143} As Owens et al note, it is ‘difficult to conclude that workers choose the second-class conditions that attach to casual work’.\textsuperscript{144} Pocock et al similarly argue:\textsuperscript{145}

There is little evidence of a widespread demand amongst individual employees for employment without rights and benefits. In an environment of increasing competition, cost minimization and public sector stringency, employer preferences have been decisive. They have taken advantage of the generous opportunities opened up by the gaps in the regulatory system to redesign jobs and replace standard permanent employment with casual employment under inferior conditions.

There is a pressing need for the increasing spread of precarious work to be reversed. Suggestions towards this goal include rendering such positions permanent, with access to associated benefits, and offering proper rights of conversion to full-time work if desired.\textsuperscript{146} The ILO has based its economic and social reform program around the concept of ‘decent work’,\textsuperscript{147}

\begin{itemize}
\item \textsuperscript{140} Belinda Probert, ‘Women’s Working Lives’, in Kate Pritchard Hughes (ed) \textit{Contemporary Australian Feminism} (Longman Cheshire, 1994), 153, 172-173; Williams, above n 82, 72-3; Smith, above n 129.
\item \textsuperscript{141} Anne Summers, \textit{Putting Equality Back On the Agenda}. Human Rights Oration (ABC Radio National Summer, 14 January 2008)
\item \textsuperscript{142} Maria Sigala, ‘Part-time employment among women with preschool children: Organisational cultures, personal careers and sense of entitlement’ in Houston, above n 68, 106.
\item \textsuperscript{143} As Owens et al explain, the cost of paying ‘casual loading’ is generally less than the cumulative cost of workplace benefits required to be paid to permanent employees: Owens, Riley and Murray, above n 35, 188. As Owens et al aptly note, this results in the passage of the risks and costs from the employer to the worker: Owens, Riley and Murray, above n 35, 188.
\item \textsuperscript{144} Ibid 190.
\item \textsuperscript{145} Barbara Pocock, John Buchanan and Iain Campbell, ‘Meeting the Challenge of Casual Work in Australia: Evidence, Past Treatment and Future Policy’ (2004) 30 \textit{Australian Bulletin of Labour} 16, 22.
\item \textsuperscript{146} Pocock, above n 16. ‘Decent Work’, an initiative of the International Labor Organisation, targets workers beyond the formal labour market. It is hoped that this program will help to address some of the issues associated with precarious work.
\item \textsuperscript{147} International Labour Organisation (ILO), \textit{Report of the Director General: Decent Work} (ILO, 1999); Owens, Riley and Murray, above n 35, 311.
\end{itemize}
developing a normative ideal of ‘decent work’ to which all members states are encouraged to adhere. This model is built around concepts of freedom, equality and security, requiring a multi-disciplinary approach (touching as it does on the areas of taxation, social security, education, labour law, industrial regulation and economics). Importantly, it is not confined to market work and embraces unpaid work.

Many participants spoke of the significant effects even temporary part-time or casual work had on their careers. While for many mothers, non-standard work is the only available option, the long-term consequences of even short stints of part-time work are noted in the literature. Such work often does not provide a bridge to gaining less precarious, ‘decent work’.

In Chapter 6, the implications of the present ‘long hours’ work culture that dominates in Australia has been discussed. It is important to note that another significant problem associated with the increased power of employers heralded by WorkChoices is that of under-employment. Under-employment is a significant issue for many parents, including many of the research participants. In reporting on their qualitative study into low-paid Australian women workers, Elton et al note:

In some cases, reductions in hours were used to discipline workers who refused to sign AWAs. In other cases, the threat of arbitrary dismissal was used to increase employer control of working time. For example, retail employee Lindsay in Queensland was offered fewer hours following her refusal to sign the AWA.

The participants’ insights and the literature highlight the many problems associated with the

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148 Owens, Riley and Murray, above n 35, 311.
149 For an interesting discussion situating precarious work in a broader context of debates over labour market reform in international financial and economic institutions, including the role of unpaid work in this debate, analysing the reports: A Fair Globalisation (ILO, 2004a) and Time for Equality at Work (ILO, 2003c), see: Kerry Rittich, ‘Rights, risk, and reward: Governance norms in the international order and the problem of precarious work’ in Judy Fudge and Rosemary Owens (eds), Precarious work, women, and the new economy: The challenge to legal norms (Hart Publishing, 2006) 31.
150 Berns, above n 39, 8, 129; Ann Curthoys in Grieve, Norma and Patricia Grimshaw (eds), Australian Women: Feminist Perspectives (Oxford University Press, 1981), 42; Owens, above n 64, 329, 338.
151 Williams, above n 82, 72-3.
152 Owens, above n 64, 329, 338.
non-standard work model. While the discussion thus far has focused on the experience of non-standard work, the next section will conclude the examination of non-standard work as a ‘solution’ enabling the integration of work and parenting by considering the ingrained structural problems of non-standard work.

**Systemic problems with non-standard work – working within the separate spheres model in the shadow of the unencumbered worker**

The crux of the problem for parent-only carers is that non-standard work, like parental leave and flexible working arrangements, still generally fails to cater to the needs of parent-only carers for the integration of work and parenting. Non-standard work still normally entails absences both from their children and from the workforce, albeit in a more incremental way. While the conflict between their work and caring roles is lessened, it is still inevitably there. Many parent-only carer participants who were not, at the time of the interview or focus group, in the workforce noted that otherwise attractive part-time work options had been ruled out as they did not accommodate parent-only care.

Non-standard work is classified as such against the benchmark of the unencumbered full-time worker. It is premised on the notion that such work is a compromise, or part-performance, of the job of the unencumbered worker. Kinnunen et al explain that, when measured against the ideal of the traditional male model of work, non-standard workers are constructed as ‘deviant, less committed and less valued employees’, considered ‘second-class or marginal’ by organisations. One economic model, the ‘dual labour market’ model, argues that part-time employment actually represents underemployment, which cheapens the cost of labour for employers and counterbalances gender pay equality. Encel and Campbell contend that the level of demand for part-time positions reflects perpetuating gender inequality, with work predominantly defining the social role of men, whereas the ‘dual role’ of work and home

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154 Indeed, many awards still only contemplate permanent, full-time work: Owens, above n 14, 408.
dictates women’s social standing.\textsuperscript{157} They assert\textsuperscript{158}

The growth of part-time jobs has been a questionable gain for women... Although part-time work means that women can combine their domestic commitments with paid work, they continue to suffer from a narrower range of jobs, unfavourable working conditions, disproportionately low pay and greater dependence on welfare.

Non-standard work also assumes dependence on an unencumbered worker to cover the risks associated with such working arrangements.\textsuperscript{159} Adams and Geller posit the rise of part-time and contingent work as implicitly recognizing a ‘negative space’ of unpaid work, largely the domain of women, with domestic and childcare responsibilities predominantly discounted by labour law.\textsuperscript{160} Pocock argues that part-time work results in the perpetuation of a workplace view of mothers as ‘problematic’ and ‘unequal contributors’.\textsuperscript{161} Like flexible working arrangements, the incidence of part-time work is a gendered phenomenon\textsuperscript{162} which perpetuates assumptions that women ‘choose’ to work part-time or casually due to their lack of commitment to the labour market and, underpinning this, the separate spheres ideology of the incompatibility of work and parenting.\textsuperscript{163}

\textit{Examining the research findings pertaining to shift-work in light of the theoretical literature}

One of the findings of the Australian Institute of Family Studies Family Formation Project was that shift work, particularly night shift work, had a predominantly negative effect on family life, interfering with parents’ availability to their children.\textsuperscript{164} It can also decrease the time parents

\textsuperscript{157} Encel and Campbell, above n 156, 68.
\textsuperscript{158} Ibid 70.
\textsuperscript{159} Barbara Pocock, R Prosser and K Bridge, \textit{Only a Casual... How Casual Work Affects Employees, Households and Communities in Australia} (University of Adelaide, 2004; Owens, above n 14, 422-3. Owens explains that the law remains committed to a traditional model of the family, in which women are ‘economically dependent and responsible for social reproduction’. Women’s ‘part’ participation has only slightly altered this traditional model, with women’s participation in the labour market generally as flexible, low paid workers: Owens, above n 39, 411.
\textsuperscript{160} Adams and Geller, above n 53, 432-433.
\textsuperscript{161} Pocock, above n 16, 4.
\textsuperscript{162} Fudge and Owens, above n 136, 3. Note, however, that the effects of globalization on the labour market have led to the concentration of other marginalized groups in precarious employment: Owens, Riley and Murray, above n 35, 473.
\textsuperscript{163} Owens, Riley and Murray, above n 35, 190.
\textsuperscript{164} VandenHeuvel and Australian Institute of Family Studies, above n 82, 6-7.
have to spend with each other.\textsuperscript{165} Paradoxically, demands for flexible working conditions can result in the imposition of employer-dictated shift patterns, which often compound the difficulties.\textsuperscript{166} The combination of varying shift times and lack of notice can create ‘practical and emotional problems’ for parents.\textsuperscript{167} Occupational health and safety research also highlights some of the risks associated with shift-work.\textsuperscript{168}

The research findings are that shift-work, as presently constituted, holds some potential benefits for parent-only carers when compared with the standard work model. However, as Chapter 10 proposes, a more appropriate solution is the development of a new work paradigm that offers all workers the ability to work in safe and fair conditions that integrate with their roles as, \textit{inter alia}, parents.

\textbf{Conclusion}

In this chapter, the reported experiences of parent-only carers have been documented. The empirical findings reveal that the main industrial measures targeted at facilitating workforce participation by parents of young children have not been successful for parent-only carers. The research participants acknowledged the value of unpaid and paid maternity leave, in particular the recent introduction of the government-funded Paid Parental Leave scheme, which provides eligible workers with the ability to take a short absence from the workforce to care for an infant irrespective of whether they have other independent means or the financial support from a partner during this period. However, this chapter argues that there are major limitations associated with parental leave as an industrial ‘solution’ to the documented work-parenting clash. The length of the leave falls significantly short of the minimum time the research participants sought to provide parent-only care for their child. Furthermore, because parental leave necessarily involves an absence from the workplace, it does not address the core concern

\textsuperscript{165} Williams, above n 23, 4.
\textsuperscript{166} Houston, above n 68, 123; Williams, above n 23, 4.
\textsuperscript{167} Houston, above n 68, 133.
\textsuperscript{168} Anne Pisarski and Rebecca Loudoun, ‘Shiftwork and Fatigue’ in \textit{Australian Master OHS and Environment Guide} (CCH Australia, 2007); Sandra Buxton, \textit{Shift work: An occupational health and safety hazard}. Masters by research thesis (Murdoch University, 2003).
of parent-only carers to integrate parenting and work.

The empirical findings are that the existence of ‘flexible’ or ‘family friendly’ working arrangements are more rhetoric than reality – despite the wealth of flexible working policies, they are rarely available for reasons that range from the subjective refusal by an employer to grant a worker’s request to work flexible hours, to the reluctance by workers to request flexible conditions in the context of a pragmatic appraisal of workplace culture and the effect such arrangements may have on their career progression. The participants’ experience is consistent with the literature, which reports that the flexible working arrangements revolution has predominantly been to the benefit of employers, assisting them to diversify their workforce to meet the increasingly complex needs heralded by globalisation and the technological revolution, rather than assisting workers to manage dual work and family responsibilities. The cultural understanding of workplace flexibility is currently very limited and unimaginative and does not transcend separate spheres ideology.

The ability to work in ‘non-standard’ employment, such as casual or part-time work, can be helpful for parent-only carers. However, whether suitable casual or part-time work is available is presently highly dependent on the industry, the employer, the manager and the conditions attached to the position. Furthermore, there are some significant, ingrained problems associated with part-time and casual work; it is highly precarious and insecure, with limited rights and entitlements. The concentration of carers, particularly mothers, in part-time and casual work, has strengthened the gender divide within the labour market and the associated significant gender wage disparity.

The widespread introduction of these industrial measures demonstrates that there is a gradual move towards recognition that problems that arise at the work-family juncture are not merely personal or intra-familial issues and responsibilities. Indeed, it acknowledges that the work-family juncture is a critical issue for organizations to address in a global market that is increasingly competitive, for workers and for consumers. As yet, however, the ‘solutions’

\[169\] Smith, above n 5, 690.
have been largely uninspiring and unhelpful. Indeed, in affirming the separation of the spheres of work and home, the industrial measures discussed in this chapter have been actively detrimental, particularly for parent-only carers of young children. As this thesis argues, the unfavourable effects of the continuing dominance of separate spheres ideology extend beyond the plight of parent-only carers and have implications for the Australian economy.

Where does this leave those seeking to provide parent-only care in the workplace? In the absence of an industrial framework that supports the integration of parent-only carers in the workforce, the sole assistance available through the law is by recourse to litigation. In the next chapter, the validity of anti-discrimination and equal opportunities law as a legal means of preventing discrimination and providing redress for those marginalized from and within the labour market will be considered.
Chapter 9: The law: Equality and choice for parent-only carers?

Introduction

The preceding chapter outlined the industrial measures (parental leave, ‘flexible’ working arrangements and non-standard work) designed to facilitate work-family balance. It then provided an analysis, drawn from the literature and empirical findings, of the shortcomings of these industrial measures as ‘solutions’ to the marginalization of parent-only carers in the labour market. The chapter argued that the main industrial measures available to date have not been effective in integrating parent-only carers into the labour market. It is thus appropriate to turn to consider the efficacy of the law in protecting workers from discriminatory conduct and remediating workers marginalised from or within the workplace.

This chapter will consider the role of the law in translating the neo-liberal concepts of autonomous choice and equality1 into practice at the coalface of work for parent-only carers. In light of the empirical findings presented earlier in this thesis that a significant majority of parent-only carers do not perceive that they experience equality at the point of entry to or within the labour market,2 and that they lack real work choices,3 this chapter considers the reasons, in terms of the legal framework in Australia, for this. Anti-discrimination and equal opportunity law, both as an independent jurisdiction and as part of the labour law framework, are the relevant legal jurisdictions.4 This chapter will explore the protections offered by labour and anti-discrimination law and whether these laws afford adequate protection to parent-only carers in the workplace.

The central argument in this chapter is that the legal framework in this area has not been an effective regulatory vehicle for the achievement of autonomous choice and equality for parent-only carers in the labour market. While the laws have had a mild normative effect in influencing

1 Note the distinction, made in Chapter 1, between equity and equality.
2 For a discussion of these empirical findings, see Chapters 5, 6 and 7.
3 These findings are outlined and discussed in Chapter 7.
the baseline social acceptance of overt discrimination for marginalised groups, including parents, they do not offer a basis for effectively challenging institutionalized and systemic discrimination, nor do they provide proper recourse for parent-only carers marginalised from or within the workplace. Despite the legal commitment to equality and the specific prohibition of discrimination on the basis of attributes that parent-only carers possess, this chapter argues that the law has not substantively assisted parent-only carers in the workplace for a number of reasons.

Firstly, there are significant problems with the focus, strength and tenacity of the legal framework that stems from the ways in which the laws are prioritised, shaped and implemented within the present neo-liberal framework. Secondly, the ambit and strength of the anti-discrimination jurisdiction is itself problematic. This is rooted in the lack of a strong source of power establishing and protecting equality and individual rights. Thirdly, there are some endemic problems and significant limitations within the anti-discrimination laws—the laws have been developed and interpreted within the confines of separate spheres ideology; a predominantly individualist approach is taken to what is a systemic, collective problem; there is a focus on formal, rather than substantive equality and on negative, rather than positive duties; and there is a lack of effective remedies and sanctions. Finally, the courts have traditionally taken a limited and conservative approach when interpreting the law, thus curtailing their potential power. Each of these issues will be examined in turn. The chapter will conclude by considering why reliance on the law to secure equality for parent-only carers in the labour market is ineffective and why a broader, socio-legal response is needed.

**Systemic problems stemming from the shaping and interpretation of the law within the present neo-liberal framework**

It is helpful to explore the experience reported by the majority of the research participants with respect to the exclusionary, hostile nature of the labour market for parent-only carers within the context of the scholarly perspective that there are significant structural problems inherent

5 Chapter 7 discusses these findings.
in western capitalist labour markets. Australia’s capitalist economy is built upon (neo-)liberal ideology (also known as economic rationalism), centring around notions of individual freedom, choice and autonomy. A strong prerequisite to the exercise of choice is equality, which is considered central to dignified human existence, including, importantly, in the context of work. The empirical findings on the significance of work for parent-only carers documented by this thesis add to a substantial body of theoretical and reflective literature that emphasises the importance of work.

Neo-liberalism is not only the dominant political discourse in Australia, but also in the contemporary Western world. At the core of traditional libertarian values is the notion of autonomous choice. Classic liberalism privileges the freedom of all individuals to choose from the goods and opportunities society has to offer, relying on their own merits and endeavours,

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6Philip Mendes, ‘Retrenching or renovating the Australian welfare state: the paradox of the Howard government’s neo-liberalism’ (2009) 18(1) International Journal of Social Welfare102; Charles Birch, Life and Work: Challenging Economic Man (UNSW Press, 2003), ix. Major exponents of liberal philosophy include John Stuart Mill (John Stuart Mill, Utilitarianism (Dent & Sons, 1863, 1910); John Stuart Mill, Liberty (Dent & Sons, 1859, 1910); John Stuart Mill, Representative Government (Dent & Sons, 1861, 1910)), John Locke and their more recent contemporaries HLA Hart (HLA Hart, The Concept of Law (Clarendon Press, 1961); HLA Hart, Law, Liberty and Morality (Oxford University Press, 1969); HLA Hart, Essays on Jurisprudence (Oxford University Press, 1982)) and Ronald Dworkin (Ronald Dworkin, Taking Rights Seriously (Harvard University Press, 1977); Ronald Dworkin, Law’s Empire (Fontana, 1986)). In On Liberty, a treatise that in part forms the basis of our highly individualistic political and economic framework, Mill proclaimed: ‘[T]he only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others… The only part of the conduct of anyone, for which he is amenable to society, is that which concerns others… Over himself, over his own body and mind, the individual is sovereign’: John Stuart Mill, Liberty (Dent & Sons, 1859, 1910).


10Owens, Riley and Murray, above n 8, 393.

11This is discussed in Chapter 5.


with their choices accommodated by the state through the application of formal principles of equal treatment.\(^{15}\) As discussed in Chapter 7, consistent with this philosophy is the rhetoric of choice, whereby risk and responsibility lies with individuals, who bear responsibility for their own failures (attributed to their autonomous decision-making); there is little acceptance of social responsibility for individual hardship.\(^{16}\)

Neo-liberalism emphasises economic progress, with work considered necessary for productivity and productivity necessary for profit (which is valued in an individualistic, rather than collective, way).\(^{17}\) This philosophy has been increasingly challenged in recent times by the philosophy of sustainability, which critiques the neo-liberal focus on profit at all cost and is concerned with the social inequality and ecological effects that can result from neo-liberal policy.\(^{18}\) Liberal philosophy does recognize a concept of common good and this underpinned the creation of the welfare state in Australia.\(^{19}\) However, the philosophy seeks to fetter the exercise of political power for egalitarian purposes – privatization and minimization of state power is favoured.\(^{20}\) There are of course many different strands of liberalism that vary significantly,\(^{21}\) ranging from minimal state intervention – an extreme focus on deregulation – to a more protective-libertarian view.\(^{22}\) However, the predominant liberal perspective emphasises individualism, rather than protectivism, notwithstanding the values of community concern which have driven the development of communal welfarism.\(^{23}\) This extends to a general lack of protection for those with caring responsibilities, who are largely unsupported.\(^{24}\) This is defensible, according to neo-liberal ideology, on the basis that increasing the market strength of the economy will be


\(^{16}\) Dux and Simic, above n 7, 108, 186.

\(^{17}\) Birch, above n 6, ix; Mendes, above n 6; Staples, above n 12.


\(^{20}\) Ibid 5-7.

\(^{21}\) Indeed, the different strands of liberalism, including neo-liberalism, are often undefined.


\(^{23}\) Ibid 24-25.

\(^{24}\) As discussed in Chapter 5, there are limited taxation benefits and incentives offered to families and to parents with dependent children.
to the benefit of all.\textsuperscript{25} Thornton asserts that the ‘fundamental contradiction’ within liberalism between individualism and communalism enables liberalism to accommodate a range of values.\textsuperscript{26} This chapter argues that anti-discrimination legislation\textsuperscript{27} is an example of an ineffective attempt to bridge the divide between individualism and collectivism that has serious consequences for parent-only carers at the work juncture.\textsuperscript{28}

The rhetoric of equality is an important concept that has shaped the economic, political and social landscape in Australia.\textsuperscript{29} Equality is the lynchpin of the statutory anti-discrimination model – the laws operate on the conceptual understanding that everyone is to be treated alike and differential treatment is discriminatory.\textsuperscript{30} Equality is expressly recognised as a core objective underpinning the enactment of federal legislation including the \textit{Sex Discrimination Act 1984 (Cth)}.\textsuperscript{31} Owens et al argue:\textsuperscript{32}

\begin{quote}
Equality at work is of particular importance as one of the recognized basics because, commensurate with neo-liberal ideals of the independence of the individual and a ‘small state’, active participation in the marketplace through work is seen as the way to achieve the economic independence so highly valued in the new economy. Because the marketplace is the domain of this neo-liberal individual the attainment of equality of access to work and the benefits of work is the responsibility of all political, social, economic and legal actors and institutions, whether public or private.
\end{quote}

\textsuperscript{25} Fudge and Owens, above n 19, 6-7.
\textsuperscript{26} Thornton, above n 12, 24-25. She argues that these values shift in response to political and economic movement.
\textsuperscript{27} Which, in our liberal democracy, anti-discrimination legislation is highly politically volatile: Thornton, above n 12, 46. Under the Howard government, HREOC’s budget was cut by 40%, reducing its staff by one-third and staff of the human rights branch of the Attorney-General’s department was reduced from 21 to five: Anne Summers, \textit{The End of Equality: Work, Babies and Women’s Choices in 21\textsuperscript{st} Century Australia} (Random House, 2003), 131 (note that HREOC is now the AHRC). In its extreme, the individualistic liberal perspective is highly critical of anti-discrimination legislation, which is considered as an intrusion by the state into private contractual rights: Chris Ronalds, \textit{Affirmative Action and Sex Discrimination: A Handbook on Legal Rights for Women} (Pluto Press Ltd, 1987), 10-12.
\textsuperscript{28} Thornton, above n 12, 259.
\textsuperscript{29} Equality has its roots variously in Judaeo-Christian belief, ideals of democratic governance and in our political and philosophical heritage and is thus variously construed as ‘equal distribution and thus equality among citizens, equality before the law as well as equal political rights, equal share in the state’ and the belief that ‘all human beings are created equal in the sight of God’: Thornton, above n 12, 9.
\textsuperscript{30} Owens, Riley and Murray, above n 8, 396-7.
\textsuperscript{31} See section 3(d) of that Act, which explicitly defines the object of that Act as including ‘to promote recognition and acceptance within the community of the principle of the equality of men and women.’
\textsuperscript{32} Owens, Riley and Murray, above n 8, 400.
However, there is a sharp conflict between the predominant ideals of liberalism and equality. Thornton argues that the ideology of merit and support for free enterprise and a market economy, which are official values of a western, liberal, capitalist democracy, are undermined by inequality.\(^{33}\) She posits that the ‘paradox of liberalism’ is that individualism and social equality are simultaneously valued, yet unchecked individualism necessarily results in social inequality.\(^{34}\) Yet as Mitchell and Arup note, extremes of inequality disrupt the market economy as they marginalize disadvantaged groups from active participation.\(^{35}\) This insight is significant in the context of this discussion of the marginalisation of parent-only carers from the labour market. As noted in Chapter 1, such marginalisation is currently causing significant adverse effects for the Australian labour market and economy, including worker and skills shortages and welfare dependency by those outside the labour market (of which parent-only carers comprise a significant subset).\(^{36}\)

The hallmarks of neo-liberal ideology and economic rationalism, in particular privatization and deregulation, have in recent decades become more pronounced and this has had a profound effect on the legal framework pertaining to work and on equality.\(^{37}\) The emphasis on individual autonomy in a competitive market economy, with a minimal welfare safety net, has increased

\(^{33}\) Thornton, above n 12, 12, 13.
\(^{34}\) Ibid 14.
\(^{36}\) With increasing globalisation, a diversity approach to equality is superseding the traditional equality approach. Note that it has been recognized that non-economic justifications, based on more traditional neo-liberal values such as choice, may be more lasting, with the ideal of diversity recognition, respect for and embracement of difference in the global marketplace: Lizzie Barmes and Sue Ashtiany, ‘The Diversity Approach to Achieving Equality: Potential and Pitfalls’ (2003) 32 *Industrial Law Journal* 274, 284; Owens, Riley and Murray, above n 8, 399. This approach was developed from an economic perspective and gives primacy to formal, rather than substantive, equality: Owens, Riley and Murray, above n 8, 399-400. Its ability to assist marginalized and precarious workers such as parent-only carers in the labour market seems doubtful, notwithstanding that it recognizes the value of difference. As will be discussed below, the adoption of a formal approach to equality is at best unhelpful and at worst, makes the goal of substantive equality more elusive.
in recent times, heralded both by domestic politics\(^{38}\) and globalisation.

There are significant industrial benefits associated with globalization,\(^{39}\) such as the growth of international trade, the reduction of transportation costs, the portability of work and the ease of multiple forms of communication that potentially enhance choice for workers and employers,\(^{40}\) including parent-only carers. However, many of the expectations associated with a globalised labour market increase, rather than decrease, the challenges of work for those with caring responsibilities. Implicit in the globalised perspective of the marketplace is the assumption of mobility and transportability. This assumption is not always compatible with the needs of partners, or families. The globalised view of the worker is still anchored to the image of the ‘unencumbered worker’,\(^{41}\) which poses additional challenges for all ‘encumbered’ workers. Parent-only carers are at the pointy end of this sword.

Furthermore, the benefits of globalization are not equitably shared.\(^{42}\) The flip side of the enhancedautonomies and opportunities presented by globalization is the increased precariousness, insecurity and inequality of work, particularly for workers other than highly skilled ‘knowledge workers’.\(^{43}\) As the empirical findings of this research establish, there is a

\(^{38}\) This was a significant agenda of the former conservative Australian government, which significantly influenced Australian policy during its 11 years in power. The WorkChoices legislation introduced a significant shift in focus to the industrial relations legislation it replaced, removing many of the collective industrial benefits and protections that the earlier legislation had offered. The accession into power of the Labor Government in 2007 has muted the paring back of welfarism, yet has placed little fetter on the rampant power of the market economy.

\(^{39}\) Globalisation is the phenomena moving us from an international to a global community: Owens, Riley and Murray, above n 8, 41.

\(^{40}\) Increasing globalization, facilitated by the technological revolution and the information age, which permits the transcendence of physical location and geography, fuels the supremacy of capitalism and consumerism: Owens, Riley and Murray, above n 8, 41, 43. Owens et al. explain how globalization is ‘dominated, controlled and shaped’ by neo-liberal ideology, with the tools of decreased regulation and privatization employed as mechanisms to achieve it: Owens, Riley and Murray, above n 8, 47; ILO, Final Report on the Impact of Globalisation (Working Party of the Social Dimension of the Liberalization of International Trade, 1999).

\(^{41}\) See Chapter 6 for a discussion of the historical origins and definition of the ‘unencumbered worker’.

\(^{42}\) Owens, Riley and Murray, above n 8, 44-45.

\(^{43}\) Owens, Riley and Murray, above n 8, 43. Rather than seeing an embrace of collective international agreements such as the International Labour Code, with globalization we have witnessed a decline in the ratifications of International Labour Organisation (ILO) conventions: Owens, Riley and Murray, above n 8, 53. This is concerning, as these agreements and conventions help to establish a baseline standard for equality in the labour market. The ILO has acknowledged the increasing social inequality and catastrophe globalization has heralded and has campaigned for a ‘fairer globalisation’ centring around ‘decent work’, the definition for which is characterized by freedom,
strong association between socio-economic status, education and labour market positioning on the one hand and choice on the other, which underpins the importance of universal rights to working conditions that accommodate parenting choice as an equality issue. Globalization brings an expanding wage disparity on the basis of gender, class and education and an increasingly wide berth between the highest and lowest deciles of each group. Globalisation has been especially problematic for women, particularly mothers, who disproportionately suffer from occupational segregation and the resultant financial insecurity and poverty. In particular, deregulation of the labour market has resulted in some serious adverse consequences for women, who predominantly work outside the privileged ranks of highly skilled professionals – notably increased working hours and greater insecurity. Increasing globalisation and deregulation of the labour market are thus likely to exacerbate rather than solve the problems facing parent-only carers.

**The weakness of the anti-discrimination jurisdiction**

In the Australian neo-liberal capitalist economy the law plays a significant role as one regulatory tool shaping behaviour. This section will explore the efficacy of the anti-discrimination regulatory framework for the vulnerable group of parent-only carers in the labour market.

Australia stands alone among Western industrialized market economies in its lack of a constitutional protection of equality, or ‘bill of rights’. While there have been judicial

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equality, security and dignity: Owens, Riley and Murray, above n 8, 69. We are yet to see this ideal translated into effect in Australia, and past experience creates significant doubts as to its realisation.


45 Owens, Riley and Murray, above n 8, 73; Joan Williams, *Unbending Gender: Why Family and Work Conflict and What to Do About It* (Oxford University Press, 2000), 2.


47 Our state and federal laws operate as a system, with our anti-discrimination and equal opportunity laws comprising one part of this system relevant to the choices of parent-only carers in the labour market. Other key areas of law include family law, social welfare law, labour and employment law and taxation law: Berns, above n 37, vi. While these latter areas are mentioned throughout this thesis, the focus of the legal analysis is on anti-discrimination and equal opportunity laws. This is because it is these laws that purport to assure gender equality, support choice in the labour market and remove discriminatory behaviour in the workplace and in public life.

48 Owens, Riley and Murray, above n 8, 394.
assertions of the primacy of such human rights as freedom, dignity and equality, there is no blanket or constitutional implication of equality as an individual right or fetter on governmental power. Rather, protection of equality falls to domestic legislation, with all state and federal jurisdictions in Australia having enacted legislation prohibiting discriminatory behaviour on the basis of certain attributes in particular spheres of public life, relevantly work. Smith notes that, while there has been no lack of legislation, the regulatory framework has had ‘very obvious weaknesses’. Owens et al contend that a core problem with the lack of a constitutional root of equality is that the workplace relations system is immune from challenge on the basis of its systemic discrimination (for example, its embedded gender segregation). Similarly, Australia lacks a comprehensive statutory scheme for worker protection – this is consequential of constitutional arrangements, which confine Commonwealth legislation to specific topics, none of which comprehensively cover work-related matters (the corporations power and the external affairs power are those most closely allied).

Australian labour and anti-discrimination law and practice is influenced by international law, chiefly the standards established by the International Labour Organisation. Equality at work has always been central to the ILO, and the ILO has also historically acknowledged the

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53 Owens, Riley and Murray, above n 8, 459.

54 Rosemary Owens, ‘Engendering flexibility in a world of precarious work’ in Judy Fudge and Rosemary Owens (eds), Precarious work, women, and the new economy: The challenge to legal norms (Hart Publishing, 2006), 329, 335. In 2006, the High Court upheld federal legislation increasing the scope of the commonwealth’s power to legislate with respect to workplace matters on the basis of the corporations power: New South Wales v Commonwealth [2006] HCA 52.

55 In the international arena, the International Labour Organisation, an arm of the United Nations, is dedicated to industrial concerns. Other sources of international standards are also influential, including the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, both adopted under the auspices of the United Nations and ratified by UN members: Creighton and Stewart, above n 22, 53.

56 It is incorporated in the International Labour Code, with equality principles contained in conventions including the Equal Remuneration Convention 1951 (ILO C 100), the Discrimination (Employment and Occupation) Convention 1958 (ILO C 111) and the Declaration on Fundamental Principles and Rights at Work 1998.
economic rights of women. However, the rights of women in the labour market were traditionally only peripheral to its core concerns.\textsuperscript{57} Since 1981, however, a broader approach to gender equality has been taken,\textsuperscript{58} with gender equality\textsuperscript{59} now regarded as a fundamental principle and right.\textsuperscript{60} Australia is a party to the core international instruments pertaining to equality at work.\textsuperscript{61} However, the Australian position with respect to the role of international law, including international labour law, in shaping domestic law has fluctuated in accordance with the tenor of the federal government.\textsuperscript{62}

While protection of equality and prohibition of discrimination on proscribed grounds is primarily within the ambit of the specialised anti-discrimination legislation, there is a limited recognition of anti-discrimination rights and principles incorporated into labour law statutes. These principles include pay equity, equality principles pertaining to workplace dispute resolution, the prohibition on taking ‘adverse action’ against another person pertaining to the exercise of workplace rights and unlawful termination of employment on discriminatory grounds.\textsuperscript{63} Most recently, the introduction of an express discrimination provision in the \textit{Fair Work Act} 2009. See sections 340 and 351 of the \textit{Fair Work Act}. See also Owens, Riley and Murray, above n 8, 441-459; Belinda Smith and Tashina Orchiston, ‘Domestic Violence Victims at Work: A Role for Anti-Discrimination Law?’ (2012) 25(3) \textit{Australian Journal of Labour Law} 2, 8.

\begin{itemize}
\item \textsuperscript{57}Owens, Riley and Murray, above n 8, 73.
\item \textsuperscript{58}The \textit{Workers with Family Responsibilities Convention 1981} (ILO C 156) is expressed in gender neutral terms, emphasizing the right to paid work and the responsibilities for care work of all workers, irrespective of gender: see <http://www.ilo.org>, accessed 14 September 2013.
\item \textsuperscript{59}See for example the \textit{Convention on the Elimination of All forms of Discrimination against Women 1979} (CEDAW), see <http://www.un.org>, accessed 14 September 2013. Article 1 protects women against ‘any distinction, exclusion, or restriction made on the basis of sex which has the effect of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.
\item \textsuperscript{60}See for example, the \textit{Universal Declaration of Human Rights 1948}, which asserts the right of all persons to equality before the law (Art 7), <http://www.un.org/en/documents/udhr/>, accessed 14 September 2013.
\item \textsuperscript{61}The Australian anti-discrimination framework is derived from the \textit{International Covenant on Economic, Social and Cultural Rights}; the \textit{International Covenant on Civil and Political Rights}; and the \textit{International Covenant on the Elimination of All Forms of Discrimination Against Women}.
\item \textsuperscript{62}Australia has ratified 63 of the ILO Conventions, including seven of the eight fundamental Conventions, but has denounced 8 of them: see <http://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>, accessed 14 September 2013. Conventions, once adopted by Conference, are open for ratification by member states yet ratification is not compulsory. Once ratified, the principles in the relevant convention must be drawn to the attention of the legislature within 18 months; cf recommendations, which are not open to ratification. See also Creighton and Stewart, above n 22, 53ff for an excellent discussion of the role and effect of international standards on domestic law, and the relevance of federal politics on our approach to the ILO.
\item \textsuperscript{63}See sections 340 and 351 of the \textit{Fair Work Act}. See also Owens, Riley and Murray, above n 8, 441-459; Belinda Smith and Tashina Orchiston, ‘Domestic Violence Victims at Work: A Role for Anti-Discrimination Law?’ (2012) 25(3) \textit{Australian Journal of Labour Law} 2, 8.
\end{itemize}
**Work Act 2009 (Cth)** was significant in bringing anti-discrimination responsibilities into the federal industrial arena and giving employers responsibility for equality at a time when the coverage of federal industrial law is at its historical peak. This is important in providing express recognition of the unlawfulness of discriminatory conduct in the context of general labour law (this right is discussed further, below).

The anti-discrimination framework is comprised of parallel anti-discrimination legislation at both a state and federal level, between which there is presently a significant degree of inconsistency, which is problematic. As Creighton and Stewart note:

> The patchwork nature of the development of protection at both federal and State level, combined with the effect of ‘mainstream’ industrial legislation, provides many potential opportunities for complainants to be frustrated and/or prolonged by jurisdictional arguments.

This patchwork enforcement framework for Commonwealth anti-discrimination laws is presently under review; the Federal government is considering a proposal to, *inter alia*, consolidate the disparate anti-discrimination laws. This would involve amalgamating the five existing Commonwealth anti-discrimination acts into a single comprehensive statute, making the laws clearer and more effective and streamlining the complaints procedures. The review is

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64 Section 351 of the Act is a new provision for federal labour law, establishing a general anti-discrimination duty. This provision acknowledges that employers are in the best position to determine the skills and knowledge required for a role, but assesses the employer’s determination against standards of reasonableness and good faith and so offers hope that it will herald greater accommodation of difference and social inclusion, notwithstanding its constraints: See Creighton and Stewart, above n 22, 543 for a discussion of the limitations, which include that it does not apply to any action deemed ‘not unlawful’ under any anti-discrimination law; the existence of the ‘inherent requirements’ defence and the exception for religious institutions; Smith, above n 52.

65 Smith, above n 52.

66 The national takeover that commenced with the *Work Choices Act* in 2006, the constitutionality of which was upheld by the High Court in *New South Wales v Commonwealth*, above n 54, has resulted in an expanded coverage of federal industrial laws under the corporations power: Smith, above n 52.


68 Creighton and Stewart, above n 22, 553.

69 This was proposed in April 2010 as a key part of the Australian Human Rights Framework. In September 2011, a Consolidation Discussion Paper was released to initiate the formal process for consultation and law reform: see [http://www.ag.gov.au/antidiscrimination](http://www.ag.gov.au/antidiscrimination); Attorney-General’s Department, *Consolidation of Commonwealth Anti-Discrimination Laws: Discussion Paper*, September 2011 (Commonwealth of Australia); see also discussion by Smith and Orchiston, above n 63, 3-4. At present, there are no clear indications of the likely changes that will result from the review.
presently at the draft discussion stage.\textsuperscript{70} The thesis is therefore unable to critique the laws beyond their present form and the discussion will proceed with a consideration of the present anti-discrimination regulatory framework.

At a federal level, the anti-discrimination framework is comprised of the \textit{Australian Human Rights Commission Act 1986} (Cth), which establishes the enforcement framework by designating the Australian Human Rights Commission as a federal entity with regulatory oversight over all Commonwealth discrimination law, which is divided into four separate types of discrimination, each with its own Act.\textsuperscript{71} In Queensland, one statute\textsuperscript{72} prohibits each of the relevant types of discrimination\textsuperscript{73} and establishes the enforcement bodies (the Anti-Discrimination Commission and the Anti-Discrimination Tribunal).\textsuperscript{74} The anti-discrimination statutes operate to establish general human rights and social standards, against which the more specific industrial laws operate\textsuperscript{75} and are designed to secure equality by eradicating less favourable treatment or outcomes for members of marginalized groups or classes. The ambit of anti-discrimination law, as human rights law, covers all persons across a broad span of activities in the public arena.\textsuperscript{76}

While the protection offered by anti-discrimination, adopted in a minor way by general labour law, is quite comprehensive insofar as the specific attributes it protects, legal scholars note that

\textsuperscript{70} The Federal Government is presently considering the results of an Inquiry into the draft legislation conducted by the Senate Legal and Constitutional Affairs Committee. See: http://www.ag.gov.au/Consultations/Pages/ConsolidationofCommonwealthanti-discriminationlaws.aspx for more information.

\textsuperscript{71} The \textit{Racial Discrimination Act 1975} (Cth), \textit{Sex Discrimination Act 1984} (Cth), \textit{Disability Discrimination Act 1992} (Cth) and \textit{Age Discrimination Act 2004} (Cth).

\textsuperscript{72} The \textit{Anti-Discrimination Act 1991} (Qld).

\textsuperscript{73} Section 7 of the \textit{Anti-Discrimination Act 1991} (Qld) prohibits discrimination on the basis of the attributes of sex; relationship status; pregnancy; parental status; breastfeeding; age; race; impairment; religious belief or religious activity; political belief or activity; trade union activity; lawful sexual activity; gender identity; sexuality; family responsibilities; and association with, or relation to, a person identified on the basis of any of the above attributes.

\textsuperscript{74} See Chapters 7 and 9 of the \textit{Anti-Discrimination Act 1991} (Qld).

\textsuperscript{75} \textit{Ansett Transport Industries (Operations) Pty Ltd v Wardley}, above n 67; Owens, Riley and Murray, above n 8, 441.

\textsuperscript{76} Owens, Riley and Murray, above n 8, 203; \textit{Sex Discrimination Act 1984} (Cth) s 4; \textit{Racial Discrimination Act 1975} (Cth) s 3(1); \textit{Disability Discrimination Act 1992} (Cth), s 4; \textit{Age Discrimination Act 2004} (Cth) s 5. This is broader than labour law which has traditionally been concerned with the rights of employees, drawing a binary divide between independent contractors and employees: Owens, Riley and Murray, above n 8, 202.
discrimination law is overshadowed by labour law,\textsuperscript{77} with the result that ‘[i]t is sometimes possible to discern an implicit hierarchy in the laws regulating work that places equality issues at the bottom’.\textsuperscript{78}

**Endemic weaknesses of anti-discrimination law**

Within anti-discrimination law, there are further substantive problems that mar its utility as a vehicle for the protection of marginalised groups such as parent-only carers. Chiefly, these are that the laws have been developed and interpreted within the confines of separate spheres ideology; the individualist approach taken; the focus on formal, rather than substantive equality; the focus on negative, as opposed to positive or affirmative, action; and the lack of effective remedies or sanctions. Each of these limitations will now be discussed. Before doing so, however, a brief outline of the anti-discrimination regulatory framework will be provided. This discussion, while providing a sketch of the anti-discrimination model, will focus on the law as it is relevant to the problems faced by parent-only carers at the point of entry to or within the labour market.

**The Australian anti-discriminatory regulatory framework as it relates to parent-only carers**

Statutory protection against the types of discrimination that parent-only carers may face in the workplace is provided by the *Fair Work Act 2009* (Cth) and the *Sex Discrimination Act 1984* (Cth)\textsuperscript{79} for workers within the federal jurisdiction\textsuperscript{80} and by the *Anti-Discrimination Act 1991* (Qld) for state workers.\textsuperscript{81} The laws explicitly seek, as a core objective, to eliminate

\textsuperscript{77} As Owens et al note, discrimination law traditionally ‘operated in the dark shadow of labour law’: Owens, Riley and Murray, above n 8, 470. Smith agrees, citing the muted use and presence of anti-discrimination provisions in the industrial law realm, notwithstanding their long presence. She attributes this to the human rights focus of discrimination law, which has resulted in their relegation to human rights commissions and tribunals, if they are dealt with at all: Smith, above n 52.

\textsuperscript{78} Owens, Riley and Murray, above n 8, 470.

\textsuperscript{79} This legislation, enacted by the Hawke government, was significant in placing gender equality firmly on the agenda and establishing legislative standards of acceptable behaviour throughout Australia: Ronalds, above n 27, 10-12.

\textsuperscript{80} These are workers employed by a national system employer – see ss 13 and 14 of the Fair Work Act.

\textsuperscript{81} The legislation serves both declaratory and remedial functions, enacting legislative norms of behaviour which recognize and declare particular rights and freedoms seen as integral to social functioning and compensating individual complainants who are victims of breaches of this code: Ronalds, above n 27,10-12; Belinda Smith, ‘A
discrimination on the grounds of, *inter alia*, sex, marital status, pregnancy, potential pregnancy and breastfeeding, as well as to provide some protection against discrimination on the basis of family responsibilities and to promote recognition and acceptance within the community of gender equality. The protection against discriminatory conduct on these grounds is afforded to both employees and prospective employees, as well as to other persons alleging discriminatory treatment in the public arena.

As noted above, the *Fair Work Act 2009* (Cth) extended the scope of protection against discriminatory conduct previously provided by federal legislation and now offers an alternative, and in certain respects preferable, forum to raise allegations of discrimination. This is a

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82 The prohibition against discrimination on the basis of breastfeeding has more recently been introduced: See the Sex Discrimination Act, as amended on 24 May 2011 by the *Sex and Age Discrimination Legislation Amendment Act 2011* (Cth), to specifically prohibit discrimination on the basis of breastfeeding (prior to this amendment, breastfeeding was a subset of sex discrimination).

83 The *Sex Discrimination Act* specifically prohibits discrimination on the basis of family responsibilities, however, this right is presently more limited than in other areas, confined to direct discrimination and dismissal: Smith, above n 83, 109. ‘Family responsibilities’ is broadly defined to include responsibilities of the employee to care for or support a dependent child of the employee, or another immediate family member in need of care and support: Section 4A of the *Sex Discrimination Act*.

84 See section 3 Sex Discrimination Act.

85 In the workplace, a claim of discrimination is enlivened where an employer discriminates on a prohibited ground in the arrangements made for the purposes of offering employment, in determining who should be offered employment, in the terms or conditions on which employment is offered, by denying or limiting the worker’s access to opportunities for promotion, transfer or training or other benefits associated with the employment, by dismissing the worker or by subjecting the worker to any other detriment: Section 14 of the *Sex Discrimination Act*. The grounds on which an employee is protected from discriminatory conduct relevantly include sex, family or carer’s responsibilities and pregnancy: Section 351(1) of the *Fair Work Act*. The *Fair Work Act* also prohibits the inclusion of discriminatory terms in industrial instruments: Section 351 of the *Fair Work Act*. See also s 342 of the *Fair Work Act*, which prohibits adverse action being taken against an employee or prospective employee. Like the relevant anti-discrimination laws, the requirement that there be a causal link between the discrimination and the action is satisfied where the discrimination is a reason for the adverse action; it need not be the predominant or substantial reason: Section 360 of the *Fair Work Act*. Note however that, as industrial legislation, rather than human rights legislation, the protection offered by the *Fair Work Act* is only to employees and potential employees (cf: *Sex Discrimination Act 1984* (Cth) s 4; *Racial Discrimination Act 1975* (Cth) s 3(1); *Disability Discrimination Act 1992* (Cth), s 4; *Age Discrimination Act 2004* (Cth) s 5.

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significant development, as previously allegations of discrimination were only able to be challenged in the anti-discrimination jurisdiction, not industrially.\textsuperscript{88} The Fair Work Act also applies a reverse onus to anti-discrimination claims, with the reason for the action presumed unless proved otherwise.\textsuperscript{89} The limits of the anti-discrimination protections offered by the Fair Work Act are, however, presently unclear, as some significant interpretative issues are yet to be determined.\textsuperscript{90}

The anti-discrimination legislation centres upon the core concepts of adverse impact and causation\textsuperscript{91} and prohibits direct and indirect discrimination. Direct discrimination is founded on the premise that like should be treated alike\textsuperscript{92} and occurs where a person is treated less favourably by reference to a comparator (a person who is in circumstances that are the same or not materially different from the aggrieved person) on the basis that they possess one or more of the proscribed characteristics.\textsuperscript{93} Indirect discrimination occurs where the same requirement or condition is applied, with a disparate impact on members of a particular proscribed group, as


\textsuperscript{89}Section 361 of the Fair Work Act. The Federal Court has not yet considered the application of the reverse onus under the Fair Work Act in the context of an anti-discrimination complaint, although it has considered it in other contexts: see for example Barclay \textit{v} Board of Bendigo Regional Institute of Technical and Further Education [2010] FCA 284 and Jones \textit{v} Queensland Tertiary Admissions Centre Ltd (No 2) [2010] FCA 399.

\textsuperscript{90}The Fair Work Act limits the coverage of its anti-discrimination provisions by exempting conduct that is not unlawful pursuant to the anti-discrimination laws: These are defined, relevantly, as the Sex Discrimination Act and Anti-Discrimination Act: s 351(3). See also discussion by MacDermott, above n 88 and Carol Andrades, ‘Intersections between “General Protections” under the Fair Work Act 2009 (Cth) and Anti-Discrimination Law: Questions, Quirks and Quandaries’ (Working Paper No 47, Centre for Employment and Labour Relations Law, University of Melbourne, December 2009), as well as the Supplementary Explanatory Memorandum to the Fair Work Bill 2008 (Cth) with respect to this issue. This was raised as an issue by the AHRC in its submission on the Fair Work Bill 2008 (Cth), yet the legislation was not clarified, perhaps intentionally: Australian Human Rights Commission, Submission No 137 to Senate Education, Employment and Workplace Relations Committee, \textit{Inquiry into the Fair Work Bill 2008, 26 August 2009}.

\textsuperscript{91}Evelyn Ellis, ‘Gender discrimination law in the European community’ in Dine and Watt, above n 15, 15.


\textsuperscript{93}Section 5(1) and s 7A of the Sex Discrimination Act; Owens, Riley and Murray, above n 8, 411-12; Thornton, above n 12, 6; Creighton and Stewart, above n 22, 546.
a consequence of their membership of that particular group or class.\(^{94}\) While the focus remains on the individual complainant, indirect discrimination is aimed at acknowledging the stigmatizing effects of membership of a disadvantaged group.\(^{95}\)

It is helpful to consider whether parent-only carers are entitled to protection pursuant to one of the specific bases on which discrimination is prohibited. The first ground to be considered is discrimination on the basis of sex. Parent-only carers are predominantly female.\(^{96}\) The protection offered by indirect discrimination on the basis of sex obliges employers to consider how the same treatment may disadvantage women as opposed to men and assure that ‘neutral’ requirements are reasonable.\(^{97}\) Given the strong association between caring for young children and gender, it is arguable that conditions not compatible with parent-only caring disadvantage women as a group. Indirect discrimination can be utilised by subsets of marginalised groups as way of collectively asserting or defending their rights in the workplace. For example, as discussed further below, indirect discrimination has been effectively utilised by women as the basis for asserting rights, such as the right to return to work part-time after a period of maternity leave.\(^{98}\)

The defence of reasonableness is applicable to claims of indirect discrimination, and amounts to a significant hurdle for potential claimants.\(^{99}\) This defence, while placing the burden of proof on the respondent employer,\(^{100}\) still permits a wide reading that incorporates separate spheres norms about the segregation of parenting and working roles by a traditionally conservative judiciary (as discussed below) and renders the \textit{Sex Discrimination Act 1984} (Cth) weaker than its

\(^{94}\) Section 5(2) of the \textit{Sex Discrimination Act}; Owens, Riley and Murray, above n 8, 415; Hepple, Coussey, Choudhury, et al, above n 92, 30; Creighton and Stewart, above n 22, 546-7.

\(^{95}\) Thornton, above n 12, 7. Note that the test of reasonableness applies – a claim of indirect discrimination will be defeated where it is shown that the term, requirement or condition was reasonable, notwithstanding its discriminatory effects: Owens, Riley and Murray, above n 8, 418-23.

\(^{96}\) See Chapter 2, p, 9.

\(^{97}\) Smith and Orchiston, above n 63, 11.


\(^{99}\) See section 7B of the \textit{Sex Discrimination Act 1984} (Cth).

\(^{100}\) Ibid s 7C.
United Kingdom and United States equivalents.¹⁰¹

The grounds of pregnancy and breastfeeding are specific and time-limited, and so do not address the sustained problems faced by parent-only carers seeking to integrate into the labour market for the duration of their children’s early childhood; the latter ground (breastfeeding) also only applies to some parent-only carers. These bases are thus of little utility to parent-only carers.

The final ground warranting consideration is that of family responsibilities.¹⁰² As noted above, the ground of ‘family responsibilities’ is treated differently to other prohibited grounds of discrimination insofar as it presently attracts the protection only of direct, and not indirect, discrimination, although this has been a contentious issue.¹⁰³ Unlike the other heads of discrimination, it is also limited to the employment situation.¹⁰⁴ Von Doussa and Lenehan argue:¹⁰⁵

Discrimination on the ground of family responsibilities is one example of those ‘various’ forms of discrimination which affect women because they are women: it does so, because women continue to bear primary responsibility for the care of their families. Importantly, in our view, that may require that women receive greater protection in this area, at least until men accept a more equal share of the work of caring for their families.


¹⁰³ See section 7A of the Sex Discrimination Act 1984 (Cth). An extension of the protection under this ground to indirect discrimination was proposed in the Sex and Age Discrimination Legislation Amendment Bill 2010 (Cth), yet was deleted during the passage of the bill. In limiting the family responsibilities provision, Parliament apparently contemplated that wider provisions would be enacted at a later stage after further consultation: Commonwealth, Parliamentary Debates, House of Representatives, 3 November 1992, 2399–400 (Michael Duffy, Attorney-General). However, this has not yet occurred.

¹⁰⁴ Contrast the other anti-discrimination grounds, which are broadly applicable in areas of public life.

¹⁰⁵ von Doussa and Lenehan, above n 101.
There remains a significant degree of confusion, among academics and the judiciary, as to how this limb of the discrimination legislation operates. Von Doussa and Lenehan call for significant reform in this area, including broadening the definition of family responsibilities discrimination to include indirect discrimination and employment matters not related to dismissal, and to claims by men and women equally, imposing positive duties upon employers and engaging in educational strategies. They conclude:

Such an approach... might lead to a closer examination of the values our society places upon work and childcare. This might, in time, lead to the ideal worker/caregiver norms following other out-dated work practices which caused inequality, like the ‘marriage-bar’ and the restrictions on women working in ‘male’ professions.

It is hopeful that amendments to the ‘family responsibilities’ ground of this nature may be achieved as one outcome of the current federal review of the anti-discrimination legislation. An extension of the ‘family responsibilities’ ground to indirect discrimination, as proposed by members of the judiciary, members of parliament and academic commentators, would provide a more specific platform for parent-only carers to seek protection against discriminatory conduct. Even with the law as it presently stands, however, the grounds of indirect discrimination on the basis of sex and direct discrimination on the basis of family responsibilities prima facie provide a basis for parent-only carers to seek protection against discriminatory behaviour, both at the point of entry to and within the labour market.

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107 von Doussa and Lenehan, above n 101.

108 Ibid.

109 Ibid.

110 As noted above, this review was proposed in April 2010 as a key part of the Australian Human Rights Framework. In September 2011, a Consolidation Discussion Paper was released to initiate the formal process for consultation and law reform: see http://www.ag.gov.au/antidiscrimination; Attorney-General’s Department, Consolidation of Commonwealth Anti-Discrimination Laws: Discussion Paper, September 2011 (Commonwealth of Australia); see also discussion by Smith and Orchiston, Thornton, above n 12, 3-4. At present, there are no clear indications of the likely changes that will result from the review.

111 von Doussa and Lenehan, above n 101.

112 In limiting the family responsibilities provision, Parliament apparently contemplated that wider provisions would be enacted at a later stage after further consultation: Commonwealth, Parliamentary Debates, House of Representatives, 3 November 1992, 2399-400 (Michael Duffy, Attorney-General).

113 Gaze, above n 106, 201.
(a) The laws perpetuate separate spheres ideology

At present, both labour law and discrimination law exclusively focus on work in the marketplace, ignoring the ‘private’ sphere of the home (and the dependence by workers on the work performed within the private sphere).\(^{114}\) This has the effect of engraining separate spheres ideology\(^{115}\) and marginalising issues associated with parent-only care. Owens notes that the legal framework for equality has ignored the subordination of women brought about by domestic responsibilities, for which women are predominantly responsible and which are integral in supporting the ‘unencumbered worker’.\(^{116}\) Smith argues that the regulatory tools offered by the relevant legislation are ‘not up to the task of prompting, facilitating and universalizing the integration of those employees who undertake paid work and unpaid domestic work’.\(^{117}\)

Framing discrimination laws around the notion that individual differences are to be treated as irrelevant is inherently problematic. For parent-only carers, the direct discrimination provisions require that employers treat the worker the same as a comparator worker who behaves in the same way, regardless of the reason and therefore does not require the employer to make any effort to accommodate different employees to enable them to participate equally. Owens et al contend that this approach can entrench the significance of difference; they call for a more substantive conception of equality, founded on respect for individual difference.\(^{118}\) Fredman argues that a more specific approach to the allocation of rights is needed, particularly for

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\(^{117}\) Smith considers that regulatory scholarship has the potential to challenge the unencumbered worker ideal, through the dual process of increasing the number and variety of regulatory tools and models utilised and adopting an interdisciplinary approach to the analysis and resolution of the problem: Belinda Smith, ‘Not the Baby and the Bathwater: Regulatory Reform for Equality Laws to Address Work-Family Conflict’ (2006) 28 Sydney Law Review 689, 691-3.

\(^{118}\) Owens, Riley and Murray, above n 8, 397.
circumstances such as pregnancy.\textsuperscript{119} This thesis argues that a more specific approach is also necessary for parent-only carers. Parent-only care workers, like all members of marginalized groups, are not all the same, so the structuring of claims for direct and indirect discrimination around the idea of equality as sameness is inherently problematic. Smith and Orchiston propose that many workers with family responsibilities need protection against unjustified stereotyping and assumptions but, more importantly, they need actual accommodation as opposed to same treatment.\textsuperscript{120} They assert:\textsuperscript{121}

Having family responsibilities usually means bearing the often time-consuming, demanding and unpredictable responsibility for day-to-day care of dependants. Inflexible work rules about hours, attendance, leave, overtime, travel or work location are likely to impact disparately upon workers with family responsibilities and to participate equally with colleagues the worker might need different treatment.

Owens notes that anti-discrimination law is ‘peculiarly inept’ in protecting individual workers from structural discrimination and doubts its potential to achieve structural change in the workplace.\textsuperscript{122}

The use of the comparator test is particularly problematic and operates to further marginalize disempowered groups. As Thornton argues, use of a comparator requires the comparison of ‘likes with unlikes’, explaining:\textsuperscript{123}

The benchmark figure is likely to be a white, Anglo-Celtic, heterosexual male who falls within acceptable parameters of physical and intellectual normalcy, who supports, at least nominally, mainstream Christian beliefs, and who fits within the middle-to-the-right of the political spectrum.

With respect to claims of discrimination in the workplace, the comparator is typically the


\textsuperscript{120} Smith and Orchiston, above n 63, 13.

\textsuperscript{121} Ibid 13.

\textsuperscript{122} Owens, above n 54, 343, 346. Creighton and Stewart similarly rule out the possibility of anti-discrimination law independently solving the problems of disadvantaged groups on the basis of its inability to bring about structural change: Creighton and Stewart, above n 22, 555.

\textsuperscript{123} Thornton, above n 12, 1-2.
unencumbered male worker,\textsuperscript{124} even in claims aimed at identifying the systemic marginalization of a particular group of workers. This obviously renders these anti-discrimination laws of little utility to parent-only carers. Similarly, industrial law also reinforces the stereotype of the normative worker as unencumbered, perpetuating working time norms consistent with the unencumbered worker model and thus marginalizing non-traditional workers.\textsuperscript{125} Labour law provides incentives for employers to maintain the divide between standard (those often working very long hours) and precarious (those often working very short hours) workers.\textsuperscript{126} Hunter blames labour law for being 'a large part of the problem' pertaining to precarious work, and credits it with contributing few solutions.\textsuperscript{127}

While the specific bases on which discriminatory conduct is prohibited would appear, both individually and collectively, to provide protection for parent-only carers, this has not been the case, as the empirical findings detailed in Chapter 5 make clear. A combination of factors – most prominently, the neo-liberal context in which the laws are developed which prioritises collective economic progress above individual welfare, and, as will be discussed below, restrictively narrow interpretations of key provisions and elements of the legislation and a traditional judicial reluctance to venture outside the confines of separate spheres ideology – collectively render the laws of little utility for parent-only carers. The difficulty and complexity of lodging a complaint for indirect discrimination, and the predominant focus on direct discrimination as leading to equality, leaves substantive structural inequality invisible.\textsuperscript{128}

\begin{flushleft}
\textsuperscript{128} Margaret Thornton, ‘Comment on Linda Dickens’ Road Blocks on the Road to Equality: The Failure of Sex Discrimination Legislation in Britain’ (1991) 18(2) \textit{Melbourne University Law Review} 298 at 301.
\end{flushleft}
Thornton argues that the perpetuation of separate spheres ideology and continued, although covert, designation of women as carers in the private sphere ‘...represents a powerful, albeit little examined rationale in favour of retention of the status quo’, with liberal theory ‘predicated upon the “naturalness” of the assignation of women to the private sphere and men to the public’. She concludes:129

\[\text{I suggest that the ways in which women are contained and controlled within the workplace are built into the structures of work itself. This epistemological paradox lies at the heart of effecting “equality” for women through anti-discrimination legislation of the kind found in both Britain and Australia.}\]

VonDoussa and Lenehan similarly argue: ‘This unequal sharing of family responsibilities between men and women is not an immutable product of women’s biology. It is a social phenomenon, which benefits [men]...’

(b) The predominantly individualist approach of anti-discrimination law is inherently problematic

A further problem with the anti-discrimination regulatory framework is the predominantly ‘privatised’ nature of the regime,132 which places onerous weight on individual complainants. Both state and federal systems have adopted an individual complaints process, where receipt of a complaint alleging discriminatory treatment leads to investigation of the complaint by the relevant Commission.133 Traditionally, only victims have had standing134 to lodge a claim alleging discriminatory treatment,135 although the Fair Work Ombudsmen has recently been empowered to inquire into, investigate and initiate enforcement action for workplace

\[\text{\textsuperscript{129}Ibid 298.}\]
\[\text{\textsuperscript{130}Ibid 299.}\]
\[\text{\textsuperscript{131}von Doussa and Lenehan, above n 101, 892.}\]
\[\text{\textsuperscript{132}Berns, above n 37, 60.}\]
\[\text{\textsuperscript{133}In the state jurisdiction, section 6(1) of the Anti-Discrimination Act stipulates that one of the Act’s purposes is to promote equality of opportunity for everyone by protecting them from unfair discrimination in certain areas of activity, including work. The Anti-Discrimination Act prohibits discrimination on the basis of, relevantly, sex, pregnancy, parental status, breastfeeding and family responsibilities: ss 7(a), (c), (d), (e), (o).}\]
\[\text{\textsuperscript{134}To lodge an allegation of discrimination, a complainant must have a particular proscribed attribute. The discrimination must have been experienced in a proscribed area of public life, of which work is one.}\]
\[\text{\textsuperscript{135}Smith, above n 83, 111.}\]
discrimination complaints\textsuperscript{136} where it considers it is in the public interest,\textsuperscript{137} which is a significant regulatory advancement in this jurisdiction.\textsuperscript{138}

In sharp contrast to other legal jurisdictions such as commercial law, where the parties are often on a level playing field in terms of their access to the preconditions necessary to secure a just outcome, there is usually a significant disparity between the resources\textsuperscript{139} and bargaining power of the parties (usually an aggrieved individual and a corporation) in a discrimination claim.\textsuperscript{140} This is particularly significant given the costly nature of litigation\textsuperscript{141} and the breadth and complexity of discrimination law.\textsuperscript{142} Smith notes that the disparity of power and resources puts the anti-discrimination model ‘barely one step above free market self-regulation’.\textsuperscript{143} Thornton contends that this ‘gross asymmetry’, this ‘marked difference in the power relationship’, may deter an aggrieved person from lodging a complaint altogether.\textsuperscript{144} She concludes that the adversarial system, far from operating as a neutral means of ascertaining the truth, allows inequality in wealth and power between the parties to be used to the discriminator’s advantage, both in individual claims and in a broader class context.\textsuperscript{145} The effects of such power imbalance would likely be particularly grave for those workers not in a position of relative power and security in the workplace, such as the majority of the research participants. The power imbalance would likely be less significant as a deterrent for the socio-economically well-positioned and independently supported workers, such as the minority of

\textsuperscript{136}Section 682 of the Fair Work Act. Prior to the Fair Work Act, the Workplace Ombudsman was not vested with this power.
\textsuperscript{137}Creighton and Stewart, above n 22, 506-7, 553.
\textsuperscript{138}MacDermott, above n 88.
\textsuperscript{139}This translates into starkly different abilities to hire legal counsel skilled in crafting persuasive arguments.\textsuperscript{139}
\textsuperscript{140}Gaze, above n 46, 6-7.
\textsuperscript{141}Williams, above n 45, 101.
\textsuperscript{142}Smith, above n 83, 110; Richard Johnstone and N Jones, ‘Constitutive Regulation of the Firm: Occupational Health and Safety, Dismissal, Discrimination and Sexual Harassment’ in Christopher Arup, John Howe, R Mitchell, Peter Gahan, Richard Johnstone and A O’Donnell (eds), \textit{Labour Law and Labour Market Regulation} (The Federation Press, 2006) 483, 493. This is particularly relevant as regards identifying whether to claim for direct or indirect discrimination (as Smith notes, the demarcation drawn between direct and indirect discrimination requires applicants to identify whether the alleged discrimination they have suffered was constituted by differential treatment or differential impact: Smith, above n 117, 713-4 and satisfying the test for indirect discrimination, and the onerous burden of proof: Johnstone and Jones, above n 142, 493; Smith, above n 52.
\textsuperscript{143}Smith, above n 83, 115.
\textsuperscript{144}Thornton, above n 12, 39.
\textsuperscript{145}Thornton, above n 12, 175.
research participants – paradoxically, it is those participants who are, due to their relative power and security in their working role, less likely to need recourse to the protections offered by the adversarial system.

The legislature attempted to minimise power imbalance by making the first step in the determination of a claim a compulsory, confidential conciliation.\(^{146}\) Consequently, the process is oft described as being informal and accessible.\(^{147}\) However, the requirements to identify and articulate the relevant breaches of the legislation, lodge a claim in the approved form to the appropriate body and adequately represent their case when face-to-face with their alleged perpetrator in a formal bureaucratic setting is highly threatening to many lay people, particularly disempowered persons not familiar with the law and legal system. Cognisance of the reality of the power balance between the parties also casts a significant shadow over conciliation negotiations. Furthermore, even for the most well-resourced, highly supported and confident complainant, suing a present or potential employer is not conducive to a happy working relationship.\(^{148}\) The often considerable delays in processing complaints can also nullify the practical effect of an order,\(^{149}\) which is particularly relevant where the dispute pertains to an ongoing employment relationship.

The usual disparity between the resources of a complainant and respondent to an anti-discrimination claim can be neutralized where the complainant is able to engage trade union representation. However, waning trade union membership\(^{150}\) and often stretched trade union resources\(^{151}\) means that industrial representation is far from a universal, or even common, occurrence. In circumstances where the Fair Work Ombudsman initiates proceedings on behalf

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\(^{146}\) It is at this step that the majority of matters resolve: Smith, above n 83, 109, 112.

\(^{147}\) Thornton notes that, while tribunals were established to hear cases quickly and inexpensively in a non-threatening, non-legalistic environment, the formal legal hierarchy is retained and in general, the ‘reality of tribunal practice contrasts with the express legislative commitment to informalism’: Thornton, above n 12, 173-174.

\(^{148}\) Belinda Probert, ‘Women’s working lives’ in Kate Pritchard Hughes (ed), \textit{Contemporary Australian Feminism} (Longman Cheshire, 1997), 168; Williams, above n 45, 101.

\(^{149}\) See for example \textit{New South Wales v Amery} (2006) 230 CLR 174, where there was a lapse of 11 years before the complaint was finally determined.

\(^{150}\) Twenty per cent of workers were trade union members in 2009, down from over 40% in 1990: Creighton and Stewart, above n 22, 157.

\(^{151}\) Which results in only the most flagrant or exemplary cases being litigated.
of a complainant, this disparity is reduced. However, the FWO has only acted on a small percentage of the complaints received to date. Further, the FWO has adopted the policy of requiring the employee to attempt to resolve the matter with their employer before becoming involved, which is akin to the traditional conciliation conference, without the aid of an impartial commissioner.

The majority of aggrieved persons have been significantly marginalized and, as the legislation explicitly acknowledges, are members of traditionally disempowered groups who are the ‘most vulnerable and least able to pursue a claim’. As a marginalized social group already in a disadvantaged position in a working culture modelled around the notional construct of the unencumbered worker, parent-only carers are significantly hindered by the pragmatic realities faced in asserting or defending their right to equality. Relevant for this group is Caine’s insight that the ‘paradox of rights’ is that they can only be realized through the masculinist institutions responsible for defining paid work in a way that marginalizes female workers. Thornton asserts that the legal culture itself reproduces inequality.

As discriminatory practices, by their very definition, only affect persons because of their membership of a particular class or group, a key requirement of any anti-discrimination system should be that claims are conceived of in a collective, rather than individualistic, light. In other jurisdictions, class action has proved a vital means of challenging embedded or institutional discrimination, however the sole collective right contained in the legislation (the right to

152 The FWO received 801 discrimination complaints during its first year of operation (5 per cent of which alleged discrimination on the basis of family or carer’s responsibilities), managed 300 workplace discrimination complaints and recommended three matters for litigation: Fair Work Ombudsman, Annual Report 2009-2010 (2010). In its second year, the FWO received and assessed 1171 complaints relating to workplace discrimination (12 per cent of which alleged discrimination on the basis of family or carer’s responsibilities) and litigated two discrimination matters, one of which resulted in an enforceable undertaking: Fair Work Ombudsman, Annual Report 2010-2011 (2011). However, the FWO is presently well-resourced and thus able to take action where it considers it appropriate to do so: MacDermott, above n 88. MacDermott appropriately distinguishes this situation from the situation of many human rights agencies who have historically been underfunded.
154 Owens, Riley and Murray, above n 8, 440; Smith, above n 83.
155 Caine, above n 37, 84.
156 Thornton, above n 12, 171-216.
make a representative complaint) is not designed in a user-friendly way and so is not utilised.\(^{158}\)

As Thornton argues, this disjuncture between the class-based focus and the individualized orientation of the legislation nullifies the potential power of indirect discrimination.\(^{159}\)

(c) **Focus on formal, rather than substantive equality**

As Thornton explains in her comprehensive review of Australian anti-discrimination laws, anti-discrimination law has proved, at best, a mediocre mechanism for putting equality on the agenda and, at worst, a façade masking the significant abyss between the rhetoric of equality and substantive equality.\(^{160}\) A significant shortcoming that undermines the efficacy of anti-discrimination law for parent-only carers is the predominant rights and liabilities regulatory approach,\(^{161}\) which is blunt, ineffective, costly, unpredictable, expensive and inept in the face of complex problems\(^{162}\) like the systemic discrimination faced by parent-only carers.

Thornton contends that formal equality can actually promote substantive inequality.\(^{163}\) Gaze agrees, arguing that while overt or explicit sex discrimination has significantly diminished as a result of the introduction of the *Sex Discrimination Act 1984* (Cth), it has been replaced by more ‘covert and subtle forms of discrimination which are more difficult to prove’.\(^{164}\) Structural and systemic inequality has blossomed in the absence of a commitment to eradicate substantive inequality (the latter is arguably due to its inconsistency with neo-liberal ideology grounded on the individualist perspective). An example of this can be seen in that wage disparity on the basis of sex perpetuates,\(^{165}\) notwithstanding the formal adoption of the principle of equal pay for

\(^{158}\) Thornton, above n 12, 39.

\(^{159}\) Ibid 7, 15-16, 245.

\(^{160}\) Ibid 14. While this work is now dated, the stagnancy of anti-discrimination law supports the continuing relevance of this work.

\(^{161}\) Other forms of regulation include command and control by an independent public agency; voluntary self-regulation; enforced self-regulation; and economic incentives: Hepple, Coussey, Choudhury, et al, above n 92, 56.

\(^{162}\) Smith, above n 83, 106-7.

\(^{163}\) Thornton, above n 12, 15, 22.

\(^{164}\) Gaze, above n 46, 4-5.

work of equal value.\textsuperscript{166}

(d) Problems with the prescription of negative, rather than positive, duties

That anti-discrimination laws are couched in predominantly negative terms is a further component of their failure to recognize and address systemic discrimination. The Commonwealth parliament has made a limited foray into positive action. In a bid to address structural disadvantage and remove the ‘hidden’ barriers to equality, the Affirmative Action (Equal opportunities for Women) Act 1986 (Cth) required large companies and educational institutions to implement affirmative action programs.\textsuperscript{167} This represented a departure from the traditional Australian legal approach of seeking to remedy harm once it has occurred, rather than proactively seeking to prevent it,\textsuperscript{168} and represented a substantive, rather than formalistic, approach to equality.\textsuperscript{169} However, this legislation faced considerable opposition in the increasingly market-oriented economic climate and was weakened to be more ‘business friendly’ in response to a concerted campaign by the corporate community.\textsuperscript{170} Following a review in 1996, the reference to affirmative action was dropped from the title of legislation,\textsuperscript{171} which is now the Equal Opportunity for Women in the Workplace Act 1999 (Cth) and the content of the Act similarly weakened. The Act proscribes a duty on employers to develop plans for the elimination of barriers to equality for women in the workplace, yet its limited application,\textsuperscript{172} managerial orientation,\textsuperscript{173} lack of appropriate sanctions for non-compliance,\textsuperscript{174} lack of a link to the Sex Discrimination Act 1984 (Cth), incongruity with the general current workplace climate, elimination of its initial goal of affirmative action or positive treatment and

\begin{thebibliography}{99}
  \bibitem{166} National Wage and Equal Pay Cases (1972) 147 CAR 172.
  \bibitem{167} While there were earlier examples of affirmative action legislation in Australia (see for example Part 9A Anti-discrimination Act 1977 (NSW), introduced in 1980, this was the first federal legislation and the first time affirmative action was extended to the private sector: Creighton and Stewart, above n 22, 194.
  \bibitem{168} Thornton, above n 12, 217.
  \bibitem{169} Ibid 242.
  \bibitem{171} Berns, above n 37, 64.
  \bibitem{172} The legislation is restricted to large companies, of 100 or more employees.
  \bibitem{173} Thornton, above n 12, 246.
  \bibitem{174} Creighton and Stewart, above n 22, 195.
\end{thebibliography}
emphasis that employment must be on the basis of merit has rendered this legislation of little utility, although it has played a minor role in increasing awareness of gender equality in the workplace.\footnote{175}{Ibid 195. The limits of this initiative are exemplified by the lack of women in managerial positions and on corporate boards: Erica French and Glenda Strachan, ‘Equal opportunity outcomes for women in the finance industry in Australia: Evaluating the merit of EEO plans’ (2007) 45(3) Asia Pacific Journal of Human Resources 314; Anne Ross-Smith and Jane Bridge, “Glacial at best”: Women’s progress on corporate boards in Australia’, in Susan Vinnicombe (ed), Women on Corporate Boards of Directors: International Research and Practice (Edward Elgar Publishing, 2008); Leonie Still, ‘Where are the women in leadership in Australia?’ (2006) 21(3) Women In Management Review 180.}

Save for this brief and heavily curtailed foray into affirmative action legislation, there is no positive duty to promote equality distinct from the individual complaint mechanism.\footnote{176}{Hepple, Coussey, Choudhury, et al, above n 92; Smith, above n 83, 110; Smith, above n 117, 713-4.} Employers are not required to take positive action to redress past discriminatory practices or change workplace culture or structures.\footnote{177}{Robin Kramar, ‘Equal Employment Opportunity: An Essential and Integral Part of Good Human Resource Management’ in Graham O’Neill and Robin Kramar (eds), Australian Human Resources Management: Current Trends in Management Practice (Pitman Publishing, 1995), 223,233.} In \textit{The Morality of Freedom}, Raz emphasizes that an integral pre-requisite to personal autonomy is that the state must not only protect against the denial of freedom but positively provide the conditions for autonomy, and faults liberalism for its failure to do so.\footnote{178}{Joseph Raz, \textit{The Morality of Freedom} (Clarendon, 1986), 424-5.} The negative focus of anti-discrimination law, while consistent with neoliberal discourse, is limiting in this way. A lesson that can be learnt from other jurisdictions is that success in this jurisdiction requires positive action.\footnote{179}{This has been the experience in the USA, Canada, Northern Ireland: Hepple, Coussey, Choudhury, et al, above n 92.} Johnstone and Jones recommend the adoption of an ‘inclusive, proactive and non-adversarial regulatory model’.\footnote{180}{They propose that such a model be structured around positive duties and supported by detailed regulations and codes of practice, one that is linked to employment and pay equity plans, involves interest groups in the process of change and empowers the regulatory bodies not only to provide assistance, education and guidance but also vests them with strong enforcement powers where self-regulation fails, similar to the Australian occupational health and safety regulatory model: Johnstone and Jones, above n 142, 494.}
A new approach proposed by commentators such as Collins and Hepple to supplement the doctrine of anti-discrimination law and as integral to the future of equality law, is that of social inclusion or solidarity.\(^{181}\) Social inclusion and solidarity are overlapping concepts, which centre upon the notion of integrating all members of a society in such a way as to enable their full participation and contribution.\(^{182}\) Positive\(^{183}\) and negative\(^{184}\) initiatives are required to aid integration.\(^{185}\) This approach moves beyond formal equality, as it enables governments and employers to take positive action to assist workers who are marginalized or require special support, thus justifying differential treatment.\(^{186}\) This approach appears to have merit in addressing the marginalisation of parent-only carers from and within the labour market, yet has not been seriously considered in Australia to date.

(e) The lack of effective remedies and sanctions where complaints are substantiated

A final problem undermining anti-discrimination legislation is the lack of appropriate sanctions to enforce compliance with the legislation, deter breaches and compensate victims. Historically, there has been no ‘big stick’,\(^{187}\) due to the absence of an enforcement agency with powers to enforce non-compliance.\(^{188}\) As discussed above, this has recently changed with the empowering of the Fair Work Ombudsman to initiate and prosecute discrimination claims on behalf of individual complainants. However, even where the FWO is involved (which is at present only in a minority of cases),\(^{189}\) the law places a strong focus on settling complaints by conciliation, and the vast majority of complaints are resolved in private conciliations. The outcome is confidential and thus unhelpful as a deterrent or in altering social behavioural norms, and any victory is


\(^{183}\) For example, active programmes to encourage participation.

\(^{184}\) For example, removing obstacles to integration and participation.


\(^{186}\) Ibid 226-7.

\(^{187}\) Smith, above n 83, 113.

\(^{188}\) Hepple, Coussey, Choudhury, et al, above n 92.

\(^{189}\) See FN 151, above.
usually little more than a ‘moral’ one.\textsuperscript{190} If the dispute remains live and is arbitrated, the remedies that may be awarded to a successful complainant include, occasionally, orders for employment or re-employment, injunctive or declaratory relief or a variation of the relevant contract and, more usually, damages quantified to put the applicant in the position they would have been in but for the unlawful discrimination.\textsuperscript{191} The Fair Work Act has introduced the potential for fines to be imposed,\textsuperscript{192} which is potentially of greater value than compensatory damages as a deterrent for employers, particularly given the historically low quantum of damages awarded.\textsuperscript{193}

In the state jurisdiction, the usual remedy where the plaint of discrimination is successfully established is the award of historically minimal monetary compensation (damages) to the individual complainant,\textsuperscript{194} which is often eroded by the legal costs incurred in reaching this resolution. There is no exemplary or punitive component to the damages routinely ordered.\textsuperscript{195} In the federal jurisdiction, the situation has recently changed and if the complaint does not resolve at the conciliation stage in the AHRC, the AHRC must terminate the complaint. The applicant is then entitled to apply to the Federal Magistrates Court, which immediately situates the complainant in the more formalistic and costly environment of a court of law.\textsuperscript{196} The requirement that each party bear its own costs imposed on discrimination claims under the Fair Work Act, while protecting complainants from the possibility of an order to pay the employer’s costs, still makes payment of their own legal fees a significant hurdle, unless the FWO acts on their behalf. Thornton laments the lack of attempts to ‘devise creative remedies which might

\textsuperscript{190} Berns, above n 37, 75.
\textsuperscript{191} Creighton and Stewart, above n 22, 553; Owens, Riley and Murray, above n 8, 434-440.
\textsuperscript{192} Up to $6,600 for an individual and $33,000 for a corporation for each breach: section 546 of the Fair Work Act.
\textsuperscript{193} MacDermott, above n 88; Gaze, above n 101, 919-920.
\textsuperscript{194} Fudge and Owens, above n 19, 329, 344; Smith, above n 83, 113. In Whitehead\textemdash Criterion Hotel, Geelong (1985) EOC 92-129, it was found that women complaining of discrimination on basis of breastfeeding had been unlawfully discriminated against in contravention of the Equal Opportunities Act 1984 (Vic), yet the Commission declined to order damages on basis that no physical or psychological damage was sustained: Gaze, above n 46, 6-7. As Creighton and Stewart, above n 22, 556 note, there have been a small number of significant awards of compensation (such as in Employment Services Australia Pty Ltd v Poniatowska [2010] FCAFC 92), but damages are usually only nominal.
\textsuperscript{195} Smith, above n 83, 112. Cf OHS and USA AD legislation; Hepple, Coussey, Choudhury, et al, above n 92.
\textsuperscript{196} Section 46PO Australian Human Rights Commission Act 1986 (Cth); Creighton and Stewart, above n 22, 552-3.
have class wide ramifications’. 197 Smith notes that, contrary to its stated objectives, the aim of the anti-discrimination legislation appears to be the private resolution of interpersonal disputes and compensation of individual victims. 198 Further, Thornton argues that there is likely to be resistance to exposing individual employers to liability for systemic harm, ‘the cause of which is deeply embedded within the social consciousness’. 199

Corporations are potentially vicariously liable for the discriminatory actions of their workers, which should theoretically prompt the development of compliance programs and management systems. 200 However, the risk of an individual complaint being lodged, substantiated and a significant order of damages made is so unprecedented, in comparison with the costs associated with organizational change, that this has not historically proved an effective deterrent. 201 Issues of discrimination are complicated by the subjectivity and relativity of factors of merit, qualification and potential, 202 and many employers are well aware of this and happy to exploit this knowledge. There is a lack of corporate incentives aimed at encouraging compliance with the legislation, 203 although the FWO is engaging in edification and activities aimed at changing workplace culture and also placing an emphasis on resolving matters by enforceable undertakings, which usually require an employer to commit to broader change. 204

The generally limited and conservative judicial interpretation of the laws

Directing the avenue of appeal from decisions of the tribunal through the traditional court

197 Thornton, above n 12, 196.
198 Smith, above n 83, 106, 109, 123-4.
199 Thornton, above n 12, 301.
200 Smith, above n 83, 114. Note that this is not a straightforward issue for employers. For a detailed discussion on the difficulties most firms face in complying fully with their equal opportunity obligations, and the reasons for their non-compliance, see: Johnstone and Jones, above n 142, 501. This would assist the corporation to show that they have taken ‘all reasonable steps’ should an issue arise: Johnstone and Jones, above n 142, 488-9. For an illustration of the way in which the ‘all reasonable steps’ requirement is differently applied to small and large companies, see Asnicar v Mondo Consulting [2004] NSWADT 143 at [102].
201 Berns, above n 37, 75.
202 Thornton, above n 12, 6, 19-20.
203 Smith, above n 117, 730; Berns, above n 37, 62.
structure also fosters inequality, as it ensures tribunals adhere to accepted judicial norms. This has the dual effect of potentially exposing all decisions of the Tribunal to judicial scrutiny, and also enabling unsuccessful corporate respondents to appeal to the often more conservative forum of a court for a reassessment of the matter. The judicial guidance that has been provided in anti-discrimination cases has been limited and conservative, with the courts traditionally narrowly construing the statutes and taking a formal, rather than substantive, approach to equality. The High Court has taken a narrow and restrictive approach to the interpretation of the scope of direct discrimination. As Kirby J noted in a dissenting judgment, the High Court has been increasingly reluctant to provide relief to claimants in the anti-discrimination jurisdiction, with no successful High Court claims in the preceding decade.

Not only have the superior courts been reluctant to substantiate discrimination complaints, the courts have also taken a predominantly limited and narrow judicial approach to the interpretation of core concepts, defences and exemptions. There is a very limited body of case law that has interpreted the legislation, with a traditionally conservative approach to judicial interpretation taken in this area. The tendency to restrictively read the legislation has been particularly limiting for parent-only carers in the labour market in the area of indirect discrimination. As noted above, indirect discrimination is the means by which disempowered or minority groups can attempt to collectively assert or protect their right to equality. It was used, in a series of federal cases, as the basis to assert the right for mothers to return to work part-

205 Thornton, above n 12, 171-216.
206 Smith, above n 117, 713-4.
207 Creighton and Stewart, above n 22, 555.
211 This results, in part, from the structure of the anti-discrimination regulatory framework, pursuant to which, as discussed below, a significant majority of complaints are resolved in the context of a confidential conciliation between the relevant parties, with only a small minority independently judicially determined.
time after a period of maternity leave. The courts have been prepared to take judicial notice that the requirement to work full-time disadvantages women as a class and that this disadvantage stems from the fact that women are more likely to require part-time work to meet their family responsibilities. However, the courts have only been prepared to go so far as to accept that an inflexible requirement to work full-time disproportionately affects women immediately upon return from maternity leave. There has been a significant reluctance to challenge the traditional work model or the separate spheres ideology that underpins it. Thus, while it is indirect discrimination that has the potential to assist parent-only carers by challenging the systemic, ingrained discrimination they face as a consequence of the dominant separate spheres ideology, the utility of indirect discrimination has been limited to date.

The conservative approach to interpreting the legislation has also resulted in the exemptions to the legislation, whereby less favourable treatment that would otherwise be unlawful is deemed lawful, being read broadly. The ‘inherent requirements’ defence contained within the Sex Discrimination Act, which renders otherwise unlawful discrimination permissible if considered necessary to enable the job to be carried out, is necessary in aiding the efficacy of operations in certain industries. However, its shadow stretches well beyond this necessity. The inherent requirements defence has been adopted in the Fair Work Act and, given the current conservative tenor of the superior courts, is likely to be afforded a similar interpretation. Similarly, the ‘reasonableness requirement’ imposed by the legislation has been judicially interpreted in such a way as to support the perpetuation of sex discrimination, as practices that disadvantage women that would otherwise be classed as indirect discrimination are often permitted. The many exceptions, exclusions and exemptions

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212 Hickie v Hunt, above n 98; Mayer v ANSTO, above n 98; Escobar, above n 98; Song v Ainsworth Game Technology, above n 98.
213 See Hickie v Hunt, above n 98, where the Commissioner inferred ‘from general knowledge that women are far more likely than men to require at least some periods of part-time work during their career, and in particular a period of part-time work after maternity leave in order to meet family responsibilities’.
214 See Hickie v Hunt, above n 98; Escobar, above n 98; Mayer v ANSTO, above n 98.
215 Section 30(1) Sex Discrimination Act.
216 Note that the test of whether discrimination is ‘reasonably necessary’ is included in s 351 of FW Act, discussed above, with the likely effect that this provision will also be limited in its operation.
217 Section 351(2)(b) of the Fair Work Act.
218 Gaze, above n 46, 5.
contained in the legislation,\textsuperscript{219} also narrows the scope of anti-discrimination law, particularly where accorded a broad judicial interpretation.\textsuperscript{220}

\textbf{Conclusion: Why a broader, socio-legal response is needed}

This analysis has highlighted the lack of assistance and certainty to be derived from the anti-discrimination and equal opportunities law jurisdictions for parent-only carers \textit{vis-à-vis} work.\textsuperscript{221} A broad perspective, appraising the ideological, theoretical and philosophical roots of the law, as well as its grounding in international legal obligation, has been taken to understand the concept of equality underpinning the objectives of the laws in this jurisdiction.

While this chapter argues that anti-discrimination laws have not been effective for parent-only carers, this is not to deny that they have been of some benefit. Anti-discrimination laws have had a mild normative effect in influencing the general social acceptance of overt discrimination,\textsuperscript{222} they have had a ‘consciousness raising effect’\textsuperscript{223} in changing work practices\textsuperscript{224} and public attitudes,\textsuperscript{225} so that blatant sexism is no longer publicly tolerated and fairness and equality are on the agenda. Most of the formal barriers to participation in the labour market for women have been lifted, resulting in significantly greater female workforce participation.\textsuperscript{226} As Smith notes: ‘[t]he battle line has at least moved forward – it is no longer drawn over blatant and intentional exclusion, but has moved to more indirect and structural forms of discrimination’.\textsuperscript{227} Despite the failure of the laws to address systemic and institutionalized...
discrimination, they have provided some individuals with a means of redressing grievances that flow from discriminatory treatment.\textsuperscript{228} However, anti-discrimination laws have proved an ineffective mechanism for challenging the structural, ingrained discrimination experienced by parent-only carers in the labour market.

This chapter has considered the reasons for this ineffectiveness. Firstly, the chapter took a global perspective and examined the acute tension between the dominant Australian political philosophy of neo-liberalism, with its focus on individual autonomy – particularly within a strong, increasingly globalised and largely deregulated and privatized market economy – and a collectivist concern for equality. This chapter asserts that this tension has marred and weakened regulatory measures concerned with the latter interest. This chapter then considered the robustness of the anti-discrimination law jurisdiction in terms of its interaction with other legal jurisdictions, noting that the timidity and weakness of the anti-discrimination statutory model is a significant limitation. Endemic problems with the laws were then considered, including limitations associated with the development and interpretation of the laws within the confines of separate spheres ideology; the predominantly individualist, rather than collectivist approach; the focus on formal rather than substantive equality; the focus on negative rather than positive duties; and the general lack of effective remedies and sanctions to compel victims to act and deter offenders. It was argued that this is compounded by the conservative and limited judicial interpretation that has failed to challenge the dominant separate spheres model and robustly attack systemic discrimination.

Anti-discrimination law purports to enable disadvantaged groups to protect and advance their claims for equal participation in public life. Anti-discrimination laws recognize that women, parents and those with family responsibilities are marginalized groups in society and that this marginalisation is most damaging in specified areas (such as the workplace) and thus explicitly seeks to provide redress for this discrimination.\textsuperscript{229} However, the law has failed to understand or has ignored the primary cause of difficulty for women in the labour market. As Williams points

\textsuperscript{228} Probert, above n 148, 169.
\textsuperscript{229} Ellis, above n 91, 14.
out, to date the legal system has failed to recognize that designing work around the norm of the unencumbered worker, and requiring women to have the social power of men, is discriminatory; rather, difficulties associated with this are considered to be women’s lack of qualifications for the job and the result of the exercise of their autonomous choice.\textsuperscript{230} Williams argues that the marginalization of mothers in the labour market is not the result of choice, but the result of systemic discrimination.\textsuperscript{231} Anti-discrimination law has failed to bring about structural or systemic change for this disempowered group, and is alone unlikely to bring about institutional or structural workplace change in the future.\textsuperscript{232}

There is a pressing need for a broader perspective in addressing the plight of parent-only carers in terms of their marginalisation from and within the labour market. While the next chapter provides detailed proposals for reform, it is appropriate here to briefly consider the appropriateness of taking a socio-legal perspective to change that is not limited to legal reform. The law is but one regulatory aspect of the institutional and social arrangements that shape labour markets and regulate employment relations and work arrangements, with other critical influences welfare policies, tax regimes, education systems, trade unions and collective bargaining and custom, corporate power and organisational culture.\textsuperscript{233} The theoretical, social, historical and political context in which it is enforced also shapes the law.\textsuperscript{234} In a report developed from their independent review of the enforcement of anti-discrimination legislation in the United Kingdom aimed at developing a new framework for equality, Hepple et al remind us that anti-discrimination laws ‘are only one aspect of a broader framework for the promotion of equality’. They call for other positive measures designed at assisting disempowered groups.\textsuperscript{235}

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\textsuperscript{230} Williams, above n 45, 5, 66. \\
\textsuperscript{231} Williams, above n 45, 37. \\
\textsuperscript{232} Owens, above n 54, 352; Creighton and Stewart, above n 22, 555; Fudge and Owens, above n 19, 27. \\
\textsuperscript{233} Fudge and Owens, above n 19, 17; Berns, above n 37, 174; Owens, above n 114, 357. Berns notes: ‘the most dramatic economic progress made by women predated Commonwealth sex discrimination and equal employment opportunity legislation by more than a decade and was a consequence of feminist and trade union agitation for equal pay in the 1960s and early 1970s.’: Berns, above n 37, 8. \\
\textsuperscript{234} Owens, Riley and Murray, above n 8, 151. \\
\textsuperscript{235} Hepple, Coussey, Choudhury, et al, above n 92, 33. \\
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At the crux of giving effect to any scheme designed to secure gender equality is to undermine the separation of the spheres of work and family, the notion of the unencumbered worker and the endemic discrimination against women and parents in the workplace. The challenge must be to the underlying causes of inequality, rather than the latent evidence of it. Inequality is deeply imbedded in domestic, political, economic and social institutions.\textsuperscript{236} Significant changes in workplace values, culture and power structures are required.\textsuperscript{237} A discussion of these issues is particularly relevant in light of present concerns about sustainability. While it is outside the scope of this thesis to explore the philosophy of sustainability, it is important to recognise its relevance in this debate. As Pocock notes:\textsuperscript{238}

> While diverse perspectives exist about the nature of the challenges we face, and the solutions that might work, it is clear that many Australians share a concern about how we are living, organizing our households and communities, and how we are working and consuming.

Coote et al similarly argues:\textsuperscript{239}

> There is nothing natural or inevitable about what’s considered ‘normal’ today. Time, like work, has become commodified – a recent legacy of industrial capitalism. Yet the logic of industrial time is out of step with today’s conditions, where instant communications and mobile technologies bring new risks and pressures, as well as opportunities. The challenge is to break the power of the old industrial clock without adding new pressures, and to free up time to live sustainable lives.

The next chapter commences the final section of this thesis, moving from a legal to a socio-centric perspective and offering some positive proposals designed to address the problems facing parent-only carers at the work interface.

\begin{footnotesize}
\textsuperscript{236} Hepple, Coussey, Choudhury, et al, above n 92, 15; Berns, above n 37, 5.
\textsuperscript{237} Berns, above n 37, 62; Owens, Riley and Murray, above n 8, 75.
\textsuperscript{238} Barbara Pocock, \textit{The Labour Market Ate my Babies: Work, Children and a Sustainable Future} (The Federation Press, 2006), v.
\end{footnotesize}
Chapter 10: The task ahead – proposals for moving towards the integration of parenting and work

Introduction

There needs to be greater recognition of the fact that the roles of both worker and family member are legitimate roles at all hours of the day; a worker cannot stop being a family member during work hours. What is needed are innovative ways to allow the individual to hold both roles simultaneously so that the roles support each other rather than produce negative interference.¹

So said VandenHeuvel two decades ago. Yet the integration of work and parenting is presently no closer than it then was. While it can be argued that there has been a slight attitudinal shift towards the parental involvement of workers, particularly fathers, workplace practice and policy has been slow to respond to the need for integration. Indeed, contemporary working practices, political and financial pressures to outsource childcare and the increasing drive towards commodification and consumption seems to have embedded separation, rather than integration. The complexity of the problem and the need for an innovative approach has stalled progress in this area. To move forward requires substantial reform across a number of different areas, each of which have their own complexities and thus cumulatively present a significant challenge.

The preceding chapter has considered the efficacy of the law in achieving equality for parent-only carers in the workforce. That chapter argued that the current legal framework has not been an adequate regulatory vehicle for the achievement of equality for this marginalized group. The systemic change that is required to address the problems created by separate spheres ideology requires a more holistic solution than the law alone offers.

This chapter presents three key proposals for moving towards the integration of work and parenting. The proposals made in this chapter are developed from an analysis of the empirical findings, a critique of the legal framework and a review of the relevant socio-legal literature.

First, this chapter argues that there is a need for the development of a new and innovative work paradigm. This requires the development of a broader understanding of work, so that the notion of ‘work’ not only accommodates but embraces the different types of productive activities that result in valuable output, irrespective of when, where and for how long the work is performed. The chapter argues that the ability to work properly flexible arrangements must be extended equally to those who are parents of young children and those who are not, to remove the stigma and disadvantage that has traditionally accompanied measures aimed only at parents.

A second proposed innovation is a reduction in the standard working week. This is designed to enable shift-parenting where desired and possible and to remove the fetters that restrict all workers being actively involved in pursuits other than work. It is also intended to challenge the demarcation between standard and non-standard work and to make space for the development of a new working norm. Instead of offering job security to some workers in positions traditionally filled by ‘unencumbered workers’, the new vision of work could offer security of employment and industrial benefits to all workers.

Finally, this thesis proposes a shift in the collective approach to children and child-rearing in Australia. This involves developing a more creative and flexible approach to children in public life, including, relevantly, respecting the presence of children of parent-only carers in the workplace, where appropriate.

The chapter will commence by presenting the research findings pertaining to each of these three proposals, in turn.

**Research findings**

**A: Developing a new work paradigm**

The research findings are that there is a pressing need for a significant renovation of the current work paradigm, to enable parent-only carers to work. Many participants considered the designation of work roles in terms of hours, rather than output, problematic. This theme was
also discussed at length in the focus group where, like individual interview participants, the participants stated that it was the set hours of work that caused the most difficulties for parent-only carers.

The empirical findings are that parent-only carers require work that is properly flexible both in terms of timing and location. Relevant findings pertaining to the two core types of flexibility sought by the research participants – timing and location – will now be presented.

**Flexibility of timing of work**

The desire for a new model of work was a significant theme in the empirical research, discussed at length by individual interview and focus group participants. Participants emphasized the benefits for parent-only carers of a model of work that is output-based, rather than time-based. Many participants spoke of the marginalizing effects of the ‘long hours’ work subculture. One participant, refuting the myth that long working hours equates with increased productivity, noted: ‘just because someone’s at the office desk from nine until five, it doesn’t mean they’re being the most productive’ (P1). Another participant reflected:

> There is very much a mind-set that the longer you’re there, the harder you must be working. It would be wonderful to change that because then I could foresee that people would be more open to working flexible hours and seeing that as a good thing. (P2)

A further participant explained:  

> The classic case is the people getting rewarded who are there before the boss gets in and are there after the boss goes home... It doesn’t mean they’re the most productive people in the job. That’s a stigma that’s associated with, with most jobs – the longer you’re there, the more productive you are. And definitely that is something that needs to change. It would be wonderful to change that because then I could foresee that people would be more open to working flexible hours and seeing that as a good thing, rather than a bad thing. And I think that people are almost going to have to start doing that, encouraging people to work flexible hours, because you’re losing quality people by not allowing that. (P2)

Many participants expressed the belief that if the perception that only those who are (visibly) working long hours are productive workers is changed, it would assist parent-only carers to

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2 Note that part of this quote is also noted in Chapter 6.
integrate work and parenting. One participant explained that, with flexible working hours and project-based work, parent-only carers could work. Another participant explained that, with the flexibility to work around children’s sleeping times and needs, knowing ‘you had to get projects done, as opposed to putting in 40 hours’, parent-only care and work is compatible (P1). A further participant said: ‘in the [professional services] industry that we’re in, there’s no reason why somebody has to be at work for a particular time’ (P18). Another participant explained how piecemeal work managed around her children enabled her to contribute to the labour market:

When the children sleep, I’ll go and do something – tomorrow for example. When they go to sleep at one or two, after lunch, I will go and plug the computer they gave me into our modem and away we go. And I can do a couple of hours work. (P8)

**Flexibility of location of work**

Removing work from the office setting was stated by many participants to be integral to facilitating the integration of parent-only care and work. This was discussed at length in the interviews and focus groups, where there was a strong consensus that the ability to work outside of the workplace is very helpful. As one participant said: ‘I actually had a story published in [major newspaper] on the day [second son] was born. I didn’t really stop. Because I was just working from home, it wasn’t really an issue’ (P21). This participant explained that she was very fortunate in that she was able to continue working from home throughout the course of her children’s early childhood. This is consistent with the experience of a small minority of participants, who reported that they experienced the ability to work from home on a permanent basis and this enabled them to integrate parent-only care and work. One participant explained that her company’s willingness to approve this working arrangement was driven by the desire to ‘keep quality employees that will get the work done’. She explained: ‘it’s easy for us, it works, I can do my job sitting in front of a computer somewhere else, I don’t need to be in the office’ (P18). Yet the majority of participants reported that there were scant options for working from home.

Flexibility of working location has been facilitated by recent technological developments. This
was discussed at length in the focus group, with many participants noting that email, the availability of secure internet portals that allow the virtual office to be accessed outside the office setting, Skype, digital dictation, project management software and other technological innovations have significantly increased the scope for working outside a traditional office environment. One individual interview participant provided details of the way technological development facilitated her ability to work and provide parent-only care. She explained that, working for an international company, all of her work was by email and internet with interstate and overseas colleagues and clients. Due to this, and as a conscious measure aimed at retaining quality staff, her company had introduced measures enabling the majority of its workforce to work externally. The company consequently had few physical offices, with all workers interacting through a collective virtual office. She explained:

I work in my lounge-room, or I work in my office, in my sewing room. And I work in my parents’ home. And because I am mainly working with people who are working interstate, if I have my mobile phone, I’m at work. So we could be at the park and if someone rings me about work, I can talk to them there. (P12)

One focus group participant, a lawyer who worked outside of the office setting in a project-based, rather than hours-based, arrangement, explained:

There’s no reason why I have to be in the office. I do everything by email, phone or on the computer. I have very little face-to-face contact with my major client. I’d be surprised if there are many people in a lot of industries who do have that face-to-face relationship with someone… with the technology there is now, there is no reason why most business can’t use digital dictation or remote logins. (FGP5)

This participant proposed that the lack of technological resources some smaller employers may experience could be overcome by the commercial development of a software package, tailored to meet the needs of employers in particular industries, that facilitates remote work access through a secure portal.

Participants spoke of the benefits offered by technology for parent-only carers, in terms of the potential for work to be performed remotely at times that accommodate their parenting responsibilities. Many participants voiced the perspective that the benefits of technological
development flow to employers too, who can enjoy reduced building and utility costs, which can be particularly significant for employers situated in central business districts where the costs of commercial leasing are generally high. Yet it was considered that most employers ‘blocked’ at this option due to concerns about worker productivity while working outside the office\(^3\) and thus fail to properly embrace technological developments that increase work options.

**Examples of ideal working arrangements for parent-only carers**

While the significant majority of research participants did not experience working arrangements that enabled the integration of parent-only care and work, a small minority of research participants did. For example, one participant explained that, while on maternity leave, she was offered some project-based work in completely flexible hours that she could do from home: ‘they gave me a project to do and I just had to deliver by a certain time. That was great’ (P4). Another participant spoke of her work for a consulting company that was very flexible and ‘fitted me perfectly’ (P19), noting that this was only a brief contract that was unfortunately no longer available to her.

Other research participants spoke of employment models they knew of that they considered exemplary. For example, one focus group participant gave the following example of an accounting business structured around the needs of parent-only carers:

> The employer has an army of stay-at-home mums who each work one or two days and he’s completely aware [they are parent-only carers]. Just about everyone that works for him is a stay-at-home mum, so they’ll work one or two days... his moral is to employ people who are highly qualified, they’re all charted accountants. He’s flexible and that seems to be working really well. (FGP7)

**Why self-employment is not a solution for parent-only carers**

Given the desire for flexibility in relation to working time and output and location, a ‘solution’ for some parents can be to develop their own business. This was the work arrangement of a

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\(^3\) This was considered to be part of the problem of the ‘fixed mindsets’ with respect to work – the findings pertaining to this issue are discussed in Chapter 6.
minority of research participants and the aspiration of a significant minority of participants. The advantages offered by running a home business were stated to include autonomy and the ability to work in a satisfying role and earn income, while retaining significant control and flexibility over working hours and conditions which can be structured to accommodate parent-only care. However, some key drawbacks were noted, in particular the start-up costs and financial risk associated with such a venture. Participants also considered that, for a majority of workers, it can require a change from a career which they may have been successfully pursuing to a completely different venture, with the potential for compromised future employment prospects and job satisfaction. Further, a small minority of participants remarked that private practice or self-employment can be more demanding than other types of employment and is thus less ideal while parenting young children. This is demonstrated by the following statements:

If you look at environmental consultants who write environmental assessments, which is what I read, they work privately and the pressure is on them a lot to produce. (P8)

The private practice is even another step removed, where I would be my own boss and set my own hours. But then there’s additional logistical considerations and the work you put in and don’t get paid for... (P14)

This was linked to current expectations of what work is, which can create high demands from clients for constant availability, even in the absence of employer-imposed conditions motivated by profit.

B: Reducing the scope of the standard working week

The second core innovation that was considered by research participants to potentially assist parent-only carers to work was a reduction in the scope of the ‘standard’ working week. Most participants evidenced their awareness of the current alternatives to the full-time working model (such as part-time and casual work); they also demonstrated understanding of the problems associated these options, insofar as they are often fraught with insecurity, low status and industrial conditions and limited long-term career prospects. As one research participant emphasized:
Those people [working non-standard or shorter hours are] seen as not contributing as much as the people who are there for the whole day and those people tend to get resentful of the people who are only there for the shorter hours, even though they’re only paid for the shorter hours. We used to see that at work. (P2)

Some participants noted that there are also a limited number of ‘non-standard’ working roles available, particularly in occupations other than the traditionally ‘feminine’ industries. One participant proposed:

I think you would need to do an overt encouragement of [flexible working arrangements]. Call for employees that would like to participate in this arrangement, rather than wait for the employees to come up to you and say: ‘I’m not going to do the job unless...’ Try to call for people to participate and give people options and support people. (P4)

The research participants spoke of the need for more demonstrated examples of part-time work and job-sharing in higher levels of the corporate hierarchy. One focus group participant explained: ‘we need to get some CEOs to work part-time. I think that if someone in Coca Cola worked part-time and job-shared, we’d be a lot further forward’ (FG).

**Job Security**

A key concern held by the research participants about working in non-standard employment is job security. Job quality and security were recognised as key issues to be addressed as regards the marginalisation of parent-only carers in the workplace. The following simple statement represents the comments of many participants in this regard: ‘I definitely would love more job security’ (P2). This participant explained that confidence that there would be employment, commensurate with her skills and experience, available to her when her children were older ‘would be wonderful’. She noted that workers such as her ‘take what they can get’ in terms of work that accommodates parent-only care while their children are young. As her children grew, and she became free to work more hours, she worried that she would ‘still be a casual’, situated in precarious employment.

**C: Developing a more sophisticated discourse on children and parenting vis-à-vis work**

The final area in which, from analysis of the empirical findings, there is scope for considerable
improvement that can aid parent-only carers in the workplace, is in terms of general attitudes and assumptions about children. Such attitudes and assumptions were considered problematic in many areas of public life but particularly, and relevantly, in the workplace. The difficulties were considered to stem from the presently predominant cultural attitudes towards young children and the mainstream valuing of work over parenting. The findings on these issues will now be presented.

**Working in a predominantly child-intolerant society**

Many participants stated that a general intolerance of children in society sets the context for workplace culture. As one participant explained: ‘I think people have a real thing about children and about children being annoying’ (P19). In Chapter 3, the research findings pertaining to the perceived stigma about parent-only care included insights into the ‘child-intolerant’ attitudes pervading Australian society, which are of relevance for this discussion.

An obvious consequence associated with the anti-child attitude that was considered to permeate most workplaces is that children are generally not welcome. Many participants accepted with some degree of resignation that Australian society does not currently support the presence of children in most workplaces. As one participant explained: ‘I really wouldn’t say that [workplaces] are all child unfriendly, but every sort of work I’ve been in so far has been... it’s been quite un-child friendly for me’ (P11).

**Work is valued more than parenting**

Exacerbating the difficulties associated with the perceived child-intolerance in society is the increasing valuing of work over family that leads to an anti-child workplace. A key theme to emerge from the research was that parent-only carers perceive that paid work is valued more highly than parenting in Australian society. This framework focus is the mirror image of the focus of parent-only carers, who reported prioritizing their children over work. A significant majority of participants considered that the present social, political and economic framework

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4 Chapter 3 discusses the empirical findings on this point.
gives primacy to participation in the labour market by prototypes of the unencumbered worker. One participant, in a statement representative of the sentiments of many, simply said: ‘this is the age of childcare now and so it would be nice to be encouraged to spend more family time’ (P2). Another participant explained:

I think that society has made work more important than raising children. The workforce has said: ‘you need to work these hours and you need to fit your childcare or raising children in around those hours’. Rather than saying: ‘raising your family is the most important, so we’ll fit in work hours to suit that’. (P6)

A further participant explained, in a statement that expresses the views of many participants: ‘[what would help me is] a willingness to look at things in a different way; a willingness by employers to value family and to value children’ (P16).  

**Integrating children into the workplace**

Many participants expressed the view that there is significant scope to integrate the presence of children into the workplace. A minority of participants had trialled integrating work and parenting and reported positive results. One participant explained that when she had taken her children to work, it had worked ‘really well’ for all parties, with the only hurdles relating to the expectation that children will not be present while an adult is working: ‘I’ve had to really explain it to patients first and got their consent’ (P15). Another participant noted: ‘I’ve run a few [university] workshops which have been quite informal, where there’s a couple of us teaching the workshop where I [brought] the kids’ (P2). The difficulties reported by participants did not relate to the presence of the children or the ability to work around them, but rather to the fixed mindsets with respect to work and parenting, discussed in Chapter 6. The majority of participants considered that, if the management team is open-minded, the possibilities are broad.

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5 This quote is also referenced, in fuller form, in Chapter 3.
Factors limiting the presence of children in some workplaces

In the words of one focus group participant: ‘it would work for some industries but not for others’ (FGP4). Some participants spoke of the difficulties for employers and workers in particular industries to adapt to properly flexible working arrangements, as one participant explained: ‘it would be really hard to integrate some jobs’ (P13). One shift-parenting participant who worked in a hospital environment noted the relevance of security, infection and workplace health and safety issues (P16). Another shift-parenting participant similarly explained: ‘working from home would not be an option for me because of the nature of the work that I do. Issues like privacy and confidentiality, mine as well as my patients, keeping those things separate’ (P20). As one participant explained: ‘my office is located right in the [hospital emergency] department [so there are] security issues and infection and workplace health and safety [considerations]’ (P16).

Getting the ball rolling... the need to make a start

While some participants expressed the view that significant attitudinal change was required to enable the integration of parent-only care and work, others were more optimistic about imminent change. A key concern expressed by many research participants was that it is imperative that a start be made – in the words of one participant, ‘we need to get the ball rolling’ (FGP5). This sentiment was enthusiastically endorsed by other members of the focus group. Many of the individually interviewed participants were of a similar perspective. One participant emphasized: ‘what I would really like to see is just more of it happening, more open-mindedness to the opportunities and more recognition of the benefits’ (P4).

Discussion

Proposals in the literature that provide the starting point for consideration of a new framework

The insights offered by this thesis make an important contribution to the literature and engage directly with the ongoing academic debate. This research makes an original contribution to
knowledge by offering a fresh perspective that resonates with, but in many respects challenges, present insights offered in the literature. This chapter will now briefly consider the extant literature on recommendations for change in this area and the contribution made by the proposals developed by this thesis, before discussing the trilogy of proposed reforms in more detail.

Hochschild has suggested some measures of a similar nature to some of the suggestions made by this chapter. She calls for the institution of ‘lower-hour’, ‘more flexible family phases’ for all ‘regular jobs filled by parents of young children’. While her proposals go some way to addressing the problem, the demarcation between ‘parents’ and ‘unencumbered workers’ is not challenged by such a proposal (rather, it is entrenched by the recognition of ‘family phases’), nor is the currently gendered division between work that is traditionally occupied by mothers and other types of work. Houston argues that employers and policy makers must respond to the desire by the majority of women, and increasing numbers of men, for greater gender equality and involvement in their children’s lives. She suggests longer periods of leave and greater availability of part-time and flexible work across all levels of employment. While Houston is apt in noting that this will require a critique of the relationship between working hours and productivity and the division of working time and tasks, the shortcomings of relying on the tools of parental leave, part-time and flexible working arrangements have been outlined in Chapter 8.

Williams suggests employee-directed scheduling as an alternative to the traditional means of

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6 She also seeks tax credits for developers building affordable housing near workplaces and shopping centres, the creation of ‘warm and creative day care centres’, or day care from elderly neighbours, students and grandparents who would be paid for this work and assisted by ‘travelling vans for day care enrichment’. Parent-only carers seeking to retain the capacity to provide continuity of care for their young children would be unassisted by the quality improvements to childcare: Arlie Russell Hochschild, The Second Shift (Avon Books, 1997), 268-9; Hochschild, Arlie Russell, The time bind: When work becomes home and home becomes work (Avon Books, 1997).


8 See Chapter 8 for a discussion of these issues.

9 Where workers can, between themselves, negotiate to fill the roster of shifts required to be worked by the worker.
coordinating schedules.\textsuperscript{10} While this would seem to offer the potential for workers to attain the ability to design schedules that are compatible with their parenting responsibilities, this thesis argues that it must be accompanied by a change from the norm of ‘standard’ work and a reduction in the quantum of such work. As Fudge and Owens note, the development of flexible standards by way of facilitative provisions enabling workers to tailor a broader range of workplace rights to suit their own needs is problematic insofar as it does not fundamentally challenge the notion of the ‘standard worker’.\textsuperscript{11} They propose that ‘public’ supervision of otherwise ‘private’ arrangements may be a more productive route to attaining ‘decent’ flexible work.\textsuperscript{12} This approach has merit from an enforcement perspective (in contrast to the failed Australian experiment whereby ‘flexible’ workplace arrangements are theoretically available to almost all and practically available to very few). However, again, it is of itself insufficient – the development of a new work paradigm is required, along with a new worker norm that incorporates work and personal life integration issues.\textsuperscript{13} Employment practices and expectations should be developed in light of the understanding that, as Adams and Geller note, not ‘all, most or even the “average” worker can be work-primary’.\textsuperscript{14}

Other scholars are in agreement that systemic change is required in this area. Rapoport et al assert that ‘fundamental questions’ need to be asked, Dux and Simic argue for ‘fundamental reforms’; they are united in their belief that a re-evaluation of the relationship between paid work and parenting in Australian society, along with assumptions about workplace commitment, is urgently required.\textsuperscript{15} Gambles et al similarly call for systemic change, 

\textsuperscript{10} Joan Williams, \textit{Unbending Gender: Why Family and Work Conflict and What to Do About It} (Oxford University Press, 2000), 95.
\textsuperscript{12} Ibid 27.
\textsuperscript{14} K Lee Adams and Chris Geller, ‘Regulating at the Work-Life Boundary: Towards Re-Integrating the Household into Labour Market Policy’ in Arup, Christopher, Peter Gahan, John Howe, et al. (eds) \textit{Labour Law and Labour Market Regulation} (The Federation Press, 2006) 432, 452
\textsuperscript{15} Rapoport et al argue that we need to tackle ‘deep identity issues’, address gender issues, recognize multiple agendas and ways of integrating, and make time and space for multiple solutions Rhona Rapoport, Suzan Lewis,
acknowledging that while bringing about such change is not easy, and involves a challenge to assumptions and values as well as to accepted rules and norms, to do otherwise is simply to attempt to apply a ‘quick fix’ to a complex problem. The proposals made by this thesis represent a significant departure from the current dominant structure and the likely resistance to moving forwards in this way is acknowledged. However, the lack of a quick or easy solution has been widely acknowledged.

Initiating a new direction in Australian research – proposals for a holistic response to the integration of working and caring

As discussed in detail in earlier chapters, there has been significant scholarly interest, both within Australia and in the global community, in exploring the problems created by the work-life interface and devising solutions to help parents manage their dual responsibilities. In Australia, this exploration has been predominantly confined to the work-family field to date. There has been scant consideration of the potential role of creative solutions that transgress the confines of the work-family jurisdiction, nor has a holistic response that targets workers other than current or prospective parents been proposed. A significant contribution made by this thesis is the exploration and collation of the perspectives of a subset of Australian parent-only carers, extended through an analysis of the legal framework and reflective and theoretical literature, to develop a trilogy of proposals for reform in a way that extends the consideration of this issue beyond a focus on measures targeted directly at the affected group.

Drawing on the empirical findings, literature review and analysis of the legal framework engaged in in the preceding chapters, it is proposed that the solution does not lie with an extension or revision of ‘parental’ or ‘family’ directed industrial measures. A holistic re-imagining of the present framework for paid work, and the present understanding of the care


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of children, is needed. This chapter argues that the work-family debate should be progressed beyond the assumptions of separate spheres ideology, within which it is still predominantly confined.\textsuperscript{18} In this regard, it is proposed that a new work paradigm be developed and extended equally to those who are parents of young children and those who are not. This is considered important for two main reasons. First, it must be recognised that the way in which work is currently structured is ideal for few people, parents or not. It is a rare worker who is without responsibilities for the care of children, elders, ill or disabled family members or friends, voluntary and community service commitments, or sporting, creative or spiritual pursuits. Defining work as an all-encompassing commitment that leaves little room for other living is disadvantageous to individuals and to society. To do so not only disadvantages individuals, it also robs society of the rich and diverse contributions workers bring outside of their working roles. Experience and diversity gained by life experiences outside the paid workforce also contributes to the workplace in terms of improved working relationships and workplace effectiveness.\textsuperscript{19}

Second, such an approach would avoid the stigma and disadvantage that has marred previous work facilitation measures for parents. Drawing a line between parents (and prospective parents) and others has been unhelpful to date and is unlikely to yield significant improvement in the future. Such demarcation reinforces the gendered division of labour,\textsuperscript{20} which results in the concentration of mothers in precarious employment. It further embeds the distinction between those in paid employment and those who are not.\textsuperscript{21} It separates parents and carers of young children as a group with special needs and rights, thus reinforcing separate spheres norms, rather than normalising this group.\textsuperscript{22} It can result in significant hostility and resentment

\textsuperscript{18} This is consistent with Williams’ recognition of the need to reshape the American work-family debate in a way that recognizes that work-family issues reflect a fundamental economic problem: Joan Williams, \textit{Reshaping the Work-Family Debate: Why Men and Class Matter} (Harvard University Press, 2010), 1.
\textsuperscript{19} Gambles, Lewis and Rapoport, above n 16, 9.
\textsuperscript{21} Ibid 192.
\textsuperscript{22} Martha Minow, \textit{Making All the Difference: Isolation, Exclusion, and American Law} (Cornell University Press, 1990), 70-4.
towards parents and children, who can be seen as the recipients of ‘special treatment’\(^\text{23}\) or privileges,\(^\text{24}\) and can engender feelings of inequality among those without significant external commitments who feel that differential treatment is not justified.\(^\text{25}\) As Cannold notes:\(^\text{26}\)

> It is parents who lose out when they are the only ones accorded the ‘special privilege’ of part-time or flexible hours. They lose not just in their struggle to be seen as ‘serious’, but because of the resentment they endure from their non-parenting colleagues. Guaranteeing the basic conditions required for people to be both good workers and good parents is the only way I can see – in a buyer’s labour market – to ensure that parents aren’t punished for caring for their kids.

The backlash caused by Australia’s limited foray in affirmative action for women in the workplace substantiates this concern.\(^\text{27}\) The Netherlands provides an excellent example – the right to request flexible working arrangements is universally available to all workers, including but not limited to those with caring responsibilities.\(^\text{28}\) This country is the leader of the OECD countries in the rate of men and women working flexibly.\(^\text{29}\) Smith makes the following comment with respect to this approach:\(^\text{30}\)

> By considering requests for flexible working arrangements from all workers, regardless of their reasons, the individual accommodation for workers with caring responsibilities is built into the design of accommodation afforded to all workers and the risk of marginalisation and resentment is minimised.


\(^{\text{24}}\) Minow, above n 22, 70-4.


\(^{\text{28}}\) See the discussion of this right, which has recently been introduced in Australia, in Chapter 8.


\(^{\text{30}}\) Belinda Smith, ‘What kind of equality can we expect from the *Fair Work Act*?’, above n 29, 570-1. Note that Smith does recognise the danger that, if such a caring right was predominantly used by those with caring responsibilities, it could become stigmatised as a ‘mommy-track’ option, akin to part-time work, a risk intensified by the gender pay gap which designates women the more likely carers.
There are a number of advantages that flow from taking a holistic approach to the introduction of such working measures. Classifying work-family interface issues as societal concerns would likely impact on the political and public support for change. As Zigler notes, the political and public response to any given social issue significantly differs depending on whether it is characterized as an individual or communal issue: ‘once defined as a societal or community issue, all segments of the society have a stake in developing solutions’.\(^{31}\) VandenHeuvel similarly notes: ‘[t]he issue of the overlap of work and family roles must be viewed as an issue applicable to male and female workers, parents and non-parents, as well as employees, employers, governments and unions’.\(^{32}\) In the corporate world, the potential to introduce properly flexible measures for all workers has recently been recognised by a small minority of employers.\(^{33}\) For parent-only carers, it would also assist in combating the perceived stigma associated with parent-only care.\(^{34}\) It is an acknowledgement of the collective, social responsibility for childrearing as the work of raising the next generation.\(^{35}\) It would also address a recognised weakness of the anti-discrimination model,\(^{36}\) whereby onerous weight is placed on members of a marginalised group to individually assert their rights in the workplace and exercise the option to request flexible working arrangements.

Given this holistic focus, this thesis does not argue for specific measures that demarcate parents and others, such as the introduction of new taxation rebates or other welfare benefits, beyond reforms aimed at amending current inequalities.\(^{37}\) It is acknowledged that, due to


\(^{32}\) VandenHeuvel and Australian Institute of Family Studies, above n 1, 117.

\(^{33}\) Spearritt and Edgar, above n 23, 12. Corporate employers including Corning, Hewlett-Packard and IBM have taken the approach of offering a wide range of benefits designed to appeal to the diversity of worker lifestyles, rather than attributing special attention to workers with family responsibilities, with positive results.

\(^{34}\) See Chapter 3 for a discussion of the empirical findings and literature on this issue.

\(^{35}\) Williams, above n 10, 60; Pocock, above n 17, 4; Cannold, above n 26, 281, 302-3.

\(^{36}\) See Chapter 9 for a full discussion of this issue.

\(^{37}\) It is considered appropriate to amend the existing taxation and family welfare laws insofar as they inequitably favour single-income, dual-parent families, discriminating against families where work and parenting responsibilities are more equitably shared, thus ingraining separate spheres ideology: See for example Chapter 3, where the effects of the family taxation benefits in privileging single-income, two-parent families above shift-parenting families is considered. As discussed in Chapter 3, Taxation law could assist the goals of equality by supporting the norm of shift-parenting (shift-parenting families are presently disadvantaged when compared with two-parent, single income families), with appropriate concessions to assist sole-parent families.
industry-specific requirements, an all-embracing reformation of working arrangements is not achievable. The work requirements of different workplaces and industries necessarily substantially differ, however, insights from the empirical research are that progress would follow if the goals to be achieved by particular workers are clearly defined and an open-minded approach taken to the way in which such goals can be accomplished. It was thought that this would open up a significant portion of work roles to innovative arrangements in terms of the place of work, time of work and measure of the worker’s productivity and accomplishment. As a likely outcome, research participants considered that the proposed changes would benefit many workers while simultaneously challenging mindsets about work and parenting.

This chapter will now consider each of the three proposals for moving towards the integration of parent-only care and work in the context of the relevant literature, commencing with the development of a new work paradigm.

A: Developing a new work paradigm

Core features of the new model that resonate with the literature

This thesis has previously outlined the systemic problems with the current framework that constitute barriers to workforce participation for parent-only carers. Chapter 6 argued that some of the practical barriers include structural issues. For example, consistent with the unencumbered worker norm, many jobs require work to be performed in ‘standard’ working hours each weekday in an office outside of the home, with longer hours required if career progression is desired. Further, Chapter 6 argued that other barriers for parent-only carers vis-à-vis workforce participation are the fixed mindsets with respect to work and the separation of work and parenting.

Consistent with the concerns of the majority of research participants to develop a new work paradigm that incorporates the core features of flexibility as to the timing and location of work,
the literature recognises that proper flexibility is paramount for all working parents. As Pocock points out, what working carers need are flexible workplaces that offer greater opportunities to be both carers and workers. For parent-only carers, flexibility is critical in enabling work choice. The empirical findings document that there are two core types of flexibility sought by parent-only carers: time and location.

The perspective expressed by a majority of the research participants that there is a lack of working roles that enable the integration of parent-only care and work is supported by the literature. Indeed, it is documented that the vast majority of those who work from home are executive males, who are not parent-only carers. Those parents who are able to work from home are predominantly concentrated in precarious work, with the associated reduced pay, limited career prospects and insecurity discussed in Chapter 8. Non-standard working arrangements, both historically and presently, have some significant limitations that must be heeded. Working from home arrangements are often also considered short-term, utilised in transition periods such as returning to the workplace after a period of parental leave, rather than a permanent solution for parent-only carers. Thus, of the work options that presently accommodate parent-only carers, many are inherently problematic and the development of a new work paradigm is required.

Practical examples that provide insight into features that would assist the integration of parent-only care and work

In addressing the challenge of translating insights about better work practice into mainstream workplace norms and culture, there are some demonstrated examples, discussed below, of

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40 Cannold, above n 26, 156.
41 Such as those where precarious workers such as the traditional outworkers were exploited in low paid, insecure, unprotected arrangements. This was traditionally ‘unskilled’ immigrant workers in the clothing and textile industries: Rosemary Owens, Joellen Riley and Jill Murray, The Law of Work. 2nd edition (Oxford University Press, 2011), 178.
42 Such as the vulnerability of many home-based workers in the current labour market: ibid 179.
companies that are leading the way in modelling an alternative work paradigm. These models not only highlight the possibilities foreshadowed by this research but also provide industrial leadership in exemplifying the viability of such changes for other workplace organisations.

Bailyn et al describe a law firm founded with the goal of establishing a new type of firm driven to provide better value to clients and more responsibility and flexibility for its workers. This was achieved by permitting the lawyers to control their own work schedules and hours, underpinned by the sole requirement of responsiveness to the client. They document the resulting very high staff and client satisfaction and staff retention rates.\(^\text{43}\)

In Australia, initiatives such as the Breastfeeding Friendly Workplace (BFW) program, a consultancy service for employers provided by the Australian Breastfeeding Association, aim to remove the workplace as a barrier to breastfeeding. The purported rationale behind the program is not only the public health benefits of increased breastfeeding rates, but also the benefits that flow to employers in terms of improved staff retention rates (and a related reduction in recruitment and re-training costs), earlier returns to work following parental leave and a reduction in sick and carer’s leave.\(^\text{44}\) The measures implemented in attaining accreditation involve small but important changes to workplaces to render them more ‘family-friendly’. A number of significant bodies have already achieved accreditation, including Government Departments, hospitals, universities, schools, law firms and major banks.\(^\text{45}\)

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\(^{45}\) Including ACT Chief Minister’s Department; ACT Legislative Assembly; ACT Medicare Local; AGL; Allens Arthur RobinsonANZ Bank; APA Group; Australia Zoo; Australian Human Rights Commission; Bendigo and Adelaide Bank Ltd; BHP Billiton; Chevron Australia; Civil Aviation Safety Authority (CASA); Clayton Utz; Colonial First State Custom Solutions; Colonial First State Global Asset Management; Construction Training Centre; Department of Finance and Services (NSW); Department of Health (NSW); Department of Health and Ageing; Department of Immigration and Citizenship; Department of Premier and Cabinet (VIC); Department of Trade and Economic Development; Department of Veteran Affairs; Endeavour Foundation; Fair Work Ombudsman; Flinders Medical Centre (SA); Flinders University; Hydro Tasmania; IBM; LaTrobe University; Lexis Nexis; National Australia Bank Limited; National Gallery of Australia; Nationwide News NSW; Macquarie University; NSW Police Force; NSW Parliament; One Mile State School; Parliament of Australia - Parliamentary Departments: Department of the Senate, Department of the House of Representatives, Department of Parliamentary Services; Parsons Brinckerhoff
There are also examples documented in the media, literature and online blogs of success in this area. Well-renowned journalist Caroline Overington recounts her experience interviewing a United Nations diplomat about the pending war in Iraq from her home office with her children present; she also documents her experience uncovering the fraud of Australian best-selling author Norma Khouri, a story for which she was awarded a Wakely award and which was investigated and written while exclusively caring for her young children. In March 2010, a Queensland-based private school teacher who was given permission by her Principal to return to work (following a period of maternity leave) with her baby on an informal basis, reported:

I enjoyed being at work today. I created useful resources for my colleagues, I was able to notice classroom issues that I could relay to the regular teacher, I was able to see and help students with their work in the classroom. I loved that I was able to use the skills that I have, and I love that I did not have to be separated from my beautiful four month old daughter in order to do so.

Exploring the research findings from an international perspective

When compared to social democratic welfare states, Australia has traditionally offered only moderate levels of public support, particularly (relevantly) in the areas of maternity and family benefits. The insights offered by the research participants with respect to changes in the workplace that would assist parent-only carers can be deepened by considering the relevance of some of the work-family initiatives adopted in other jurisdictions. While Summers warns us not to look to other countries for solutions to Australia’s problems, there are some helpful lessons and strategies to be learned from the global community. As Fudge and Owens note,

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Peninsula Health; Reserve Bank of Australia; Safe Work Australia; St Paul’s Grammar School; Stanwell Power; State Library of Queensland; Statewide Super (Statewide Financial Management Services); Sydney Children’s Hospital; The Royal Women’s Hospital (VIC); The Treasury; The Westpac Group (Head Office - Westpac Place, Sydney); University of NSW; University of Queensland; University of South Australia; Working Women’s Centre. See http://www.breastfeedingfriendly.com.au/index.php?option=com_content&task=view&id=32&Itemid=46 for a full list.

46 Caroline Overington, Only in New York: How I took Manhattan (With the Kids) (Allen & Unwin, 2006), 52-3.
47 Ibid 234-240
49 Pocock, above n 17, 40.
50 Summers argues that while it may be that other countries have worked out a better way of enabling women to combine having children with continuing their economic activities but it will be a way that works for them and that we need to devise our own solutions having regard to our own circumstances, history and political and social structure: Anne Summers, The End of Equality: Work, Babies and Women’s Choices in 21st Century Australia (Random House, 2003), 14-15.
comparative analysis is a common legal tool that can be helpful.\textsuperscript{51} Jacobs and Gerson similarly recognize the utility of a cross-national perspective in enriching the understanding of the current situation and informing possibilities for improvement.\textsuperscript{52} Two important lessons they note from this analysis resonate here: ‘that institutional arrangements and policies matter, but no single policy can suffice’ and that current work-family arrangements ‘are not inevitable or inherent in the nature of modern, and particularly professional, work’.\textsuperscript{53} The discussion will thus briefly consider some of the more notable international examples of different initiatives aimed at improving the work/parenting interface and their potential utility for Australian parent-only carers. It must be noted, however, that all capitalist countries are presently structured in accordance with separate spheres ideology and there is thus little assistance to be offered in developing a framework that integrates work and parenting.

Sweden is often exemplified for its initiatives at the work-family juncture. The combination of well-developed social welfarism, a strong trade union presence,\textsuperscript{54} a parental leave system that is generous by international standards,\textsuperscript{55} entrenched societal expectations of shared parental responsibility for earning household income, housework and childrearing,\textsuperscript{56} a solid framework for part-time work\textsuperscript{57} and quality subsidized childcare\textsuperscript{58} have resulted in international leadership in terms of levels of female education,\textsuperscript{59} workforce participation\textsuperscript{60} and fertility (close to replacement levels).\textsuperscript{61} However, the Swedish framework still predominantly marginalizes parent-only carers, who are ultimately unassisted by the generous paid parental leave\textsuperscript{62} and quality, subsidized childcare schemes.\textsuperscript{63} Kitzinger notes that there is a growing interest in shift-
parenting as a way of providing parent-only care in Sweden, with Swedish universities exemplifying the possibility: ‘At Stockholm University I was struck by the number of men wheeling strollers or with baby carriers on their backs as they did research or taught students’. However, she notes that parent-only carers remain marginalized in other industries. Other European countries, notably France, are following the Swedish example. The traditional French focus on family policy and the communal vision for supporting motherhood, considering it a social function akin to military service, has resulted in generous parental leave and support provisions. This has been aided by the introduction of a standard shortened working week, discussed below.

Much can be learned from the European Commission’s ‘flexicurity’ model, the ‘leitmotiv’ of the European employment strategy and the revised Lisbon Strategy for Growth and Jobs. This welfare state/pro-active labour market policy model integrates labour market flexibility in a dynamic economy with security for its workers. It is comprised of four key components: flexible and reliable contractual arrangements; comprehensive strategies for lifelong learning; active labour market policies; and contemporary social security systems to provide income support during transitions between employment.

Importantly for parent-only carers, flexicurity targets both those inside and out of the labour market and is perceived as a strategy to increase the inclusiveness of European labour markets, minimizing segmentation between those in secure employment and those on the fringes of the

64 Sheila Kitzinger, Oursevms as mothers: The universal experience of motherhood (Addison-Wesley, 1995), 290.
65 Ibid.
67 The term was first coined by the social democratic Prime Minister of Denmark PoulNyrup Rasmussen in the 1990s.
labour market. It is also designed to support gender equality by promoting equitable access to decent employment for all persons and offers measures to reconcile work and family.

In Denmark, flexicurity is conceptualized as a ‘golden triangle’, encompassing flexibility in the labour market, social security and an active labour market policy with rights and obligations for the unemployed. That the Danes have consistently been rated the happiest nation on earth has partly been attributed to their flexicurity model. However, there has been scepticism as to whether flexicurity is achievable in the Australian context.

At the other end of the spectrum to the Danish model is the plight of American parents. The scarcity of parental leave (paid or unpaid), the lack of social welfare and the quality of childcare centres, historically grounded in the focus on individual rights and formal equality, is often deplored. While the United Kingdom, like the United States has relegated family life as a ‘private’ matter outside the scope of government intervention, it has balanced this with the use of law and government intervention to pursue work/life balance, consistent with the

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70 Another widely referenced definition is ‘... a degree of job, employment, income and combination security that facilitates the labour market careers and biographies of workers with a relatively weak position and allows for enduring and high quality labour market participation and social inclusion, while at the same time providing (2) a degree of numerical (both external an internal), functional and wage flexibility that allows for labour markets’ (and individual companies’) timely and adequate adjustment to changing conditions in order to maintain and enhance competitiveness and productivity’: Ton Wilthagen and Frank Tros, ‘The Concept of ‘Flexicurity’: a new approach to regulating employment and labour markets’ in ‘Flexicurity: Conceptual Issues and Political Implementation in Europe’ (2004) 10(2) Tanfer, European Review of labour and research.


74 Berns, above n 20, 138.

75 Spearritt and Edgar, above n 23, ii.
European approach.\textsuperscript{76} Williams denigrates the American approach, explaining:\textsuperscript{77}

In sharp contrast [to the Swedish model], the only benefit available to the American couple is three months of unpaid leave – if the couple is lucky enough to have an employer who is not exempted from this requirement. Failures of public policy are a key reason that Americans face such acute work-family conflict.

In Japan, the unencumbered worker norm remains privileged, but with an innovative spin. Male workers are provided with an incentive payment when their wives stay at home, in recognition of the way this support enables the unencumbered worker to function at his peak. While this raises the barriers to gender equality in the labour market, it does recognise that the unencumbered worker does not exist in isolation but is rather comprised of two workers, with one dedicated to paid labour and the other home work.\textsuperscript{78}

Spearritt and Edgar argue that Australia sits ‘somewhere in between’ the European example on the one hand and the UK and US model on the other.\textsuperscript{79} England, prompted by the United Kingdom’s membership of the European Union, has made significant advances on the work/family front. The Government introduced a package of ‘family-friendly’ practices, legislating for minimum pay, working time regulations and increased regulation of part-time work, simultaneously with generous paid maternity leave and a tightening up of the unfair dismissals laws.\textsuperscript{80} These measures were accompanied by a restructure of taxation and social security policies.\textsuperscript{81} Conaghan argues that England exemplifies the ‘power of the national state in an era of globalization to address social issues constructively’.\textsuperscript{82}

This first proposal for the development of a new work paradigm has considered some of the core features required to cease the marginalisation of parent-only carers from the workforce.

\textsuperscript{76} Smith, above n 73, 702.
\textsuperscript{77} Williams, above n 18, 8.
\textsuperscript{78} Adams and Geller, above n 14, 437.
\textsuperscript{79} Spearritt and Edgar, above n 23, ii.
\textsuperscript{81} Conaghan, above n 80.
\textsuperscript{82} Ibid; Owens, above n 80, 356-357.
Summing up the argument thus far, Williams concludes: ‘what is needed are not “grafts on an unchanging core”, but a redefinition of what it means to be an ideal worker’. This chapter will now consider the second proposal, which is to reduce the scope of the standard working week.

B: Reducing the scope of the standard working week

As discussed in Chapter 6, there is a ‘long working hours’ norm that has pervaded Australian culture, extending the standard full-time working week beyond the legislated 38 hours. Many scholars have questioned the wisdom of this norm. Benveniste argues that the existence of a conflict of interest between work and parenting is mythical, born from workaholism in the workforce, ‘the belief that quality comes out of the number of hours you are sitting in the office’. She argues that the greatest workplace contributions are made by well-rounded employees, not ‘the people sweating it out late hours’. Mitchell argues that one feature of contemporary work culture that is particularly disadvantageous for non-standard workers is that performance is measured in terms of hours worked. Kinnunen et al contend that the emphasis placed on ‘time spent visibly in the workplace’, a core facet of the unencumbered worker model, results in the assumption that those who prioritise caring for their children or other commitments over excess working time are less dedicated or productive, irrespective of output. Smith similarly notes: ‘the link between time and valuable work is not innate or inevitable... experimenting with time norms can improve work and family balance for employees and, at the same time, increase business efficiency’. Pocock proposes that

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83 Williams, above n 10, 96.
86 Mitchell, above n 38, 166.
87 Kinnunen, Mauno, Guerts, et al, above n 25, 94.
increasing the time autonomy of workers and restricting long working hours would help.\textsuperscript{89}

One potential response to the documented problems associated with long working hours in Australia is the development of a shorter standard working week. This is developed in conjunction with the proposal to restructure market work insofar as productivity is measured in terms of output, rather than time worked. With a reduction in scope of the standard working week (focusing on output required, rather than hours worked), and increased flexibility as to the spread of working hours,\textsuperscript{90} it is expected that many more families would be enabled to provide parent-only care.\textsuperscript{91} While it is acknowledged that this is of course more difficult for sole parent families, who would be unable to share the care of their young children via shift-parenting, it is an important first step that would help to normalize parent-only care of young children as a valid option for families without marginalizing one parent from the labour market. In this regard, the proposal resonates with Williams’ assertion that a shift to what she terms ‘reconstructive feminism’ would allow mothers and fathers the opportunity to both perform simultaneously as ‘ideal’ workers (under a redefined ideal) and also as adults responsible for care-giving.\textsuperscript{92}

In Australia, it is documented that approximately one-quarter of all part-time workers would prefer to work more hours, whilst many full-time workers would prefer to work less.\textsuperscript{93} In short, the hours of full-time work are too long and the hours of many part-time jobs too short to suit the needs of many workers and their families.\textsuperscript{94}

\textsuperscript{89} Pocock, above n 17, 220.
\textsuperscript{91} For example, depending upon the job role and industry, workers could be required to work a particular number of hours per week, month or year, or could take on a portion of a client load: Williams, above n 10, 85.
\textsuperscript{92} Williams, above n 10, 58.
\textsuperscript{93} Creighton and Stewart, above n 93, 380; Barbara Pocock, Natalie Skinner and Reina Ichii, \textit{The Australian Work and Life Index 2009} (Centre for Work + Life, University of South Australia, 2009).
\textsuperscript{94} It is imperative that a reduction in the quantum of work be instituted to accompany the implementation of a new work paradigm. Without a restriction on the amount of work to be performed by each worker, there is a danger that a new paradigm could result in the increasing dominance of paid work in individuals’ lives, rather than its containment. This is a pitfall that can be associated with working from home arrangements, particularly for professionals. The reduced quantum of work would need to be legislatively established and actively regulated,
The idea of a shorter standard working week has been discussed in the literature. The scholarship of economists has been pioneering in this area, notably the work of Coote et al, Skidelsky, Victor and Jackson, as well as Keynesian economists. These scholars have proposed substantive reductions, some akin to halving the current working week. In other disciplines, scholars including Jacobs and Gerson, Lake and Cannold have argued for the need for, and utility of, a shorter standard working week in Australia. Others have made similar arguments in foreign jurisdictions.

Berns contends: ‘there are very few jobs that actually need to be done on a full time basis and even fewer which require the kind of hours that are the norm in many professional workplaces’.

Proponents of a shorter working week posit that it would address a raft of critical and inter-related problems, including unemployment, high carbon emissions, low individual well-being, entrenched inequalities, over-consumption, overwork, family care, and the general lack of time to care for one another and enjoy life. Coote et al ambitiously propose that a 21-hour

particularly in the implementation stage where the new standard would represent a significant departure from existing cultural norms in many workplaces and industries.

95 Coote, Franklin and Simms, above n 90.
98 Tim Jackson, Prosperity without Growth: Economics for a Finite Planet (Routledge, 2011).
99 In 1930, renowned economist John Maynard Keynes predicted that by the end of the century people would be working a 15-hour week. He considered long hours of work would no longer be necessary to earn enough to satisfy our material needs; instead, we would be preoccupied with ‘how to use freedom from pressing economic cares’ that accompanied societal prosperity. His scholarship gave rise to a group of macroeconomic schools of thought, collectively termed ‘Keynesian economics’. While Keynesian economics has largely been discredited, there have been suggestions that the popularity of Keynesian economics has resurged to some extent following the Global Economic Crisis: SPIEGEL, ‘Sinking into a Recession: Economic Crisis Mounts in Germany’ Der Spiegel, 4 November 2008 (Retrieved 20 January 2013). See John Maynard Keynes, The General Theory of Employment, Interest and Money (Macmillan Cambridge University Press, for Royal Economic Society, 1936). This thesis does not seek to privilege Keynesian economic theory, but rather to recognise Keynes as one of the earlier proponents of the idea of a shorter working week.
100 The NEF proposal is a reduction to 21 hours.
101 Jacobs and Gerson, above n 23, 185ff.
102 Marilyn Lake proposes a 30-hour week, coupled with more accessible quality childcare: Marilyn Lake, Getting Equal: The history of Australian feminism (Allen & Unwin, 1999), 279-280.
103 Lesley Cannold agrees with Lake’s 30-hour week model: Cannold, above n 26, 298-301.
105 Berns, above n 20, 195.
106 Coote, Franklin and Simms, above n 90, 2.
working week would result in a safeguarding of the natural resources of the planet, social justice and well-being, and a robust and prosperous economy.\textsuperscript{107} They note that, while there are ‘few options’ that have not been ‘exhaustively debated and tested, with varying and seldom impressive results’ to the significant problems of widening inequalities, a failing global economy and threatened environmental catastrophe, the idea of a much shorter working week has had ‘almost no public debate as an active, potentially desirable, policy choice’ and they seek to challenge this.\textsuperscript{108} Further, they note that 21 hours is the approximate average of time that British men and women of working age actually spend in paid work and unpaid work respectively, which is significantly different to the full-time ‘norm’. Coote et al thus argue that a 21 hour work week would more equitably redistribute working hours, across gender and socio-economic status.\textsuperscript{109}

In Australia, the standard working week has been increasing, such that Australians now record the longest average working week.\textsuperscript{110} Yet this is contrary to the trend recorded in the rest of the Western world, where the standard working week has been steadily decreasing.\textsuperscript{111} The French led the way in implementing, in February 2000, a shorter standard working week.\textsuperscript{112} The stated rationale for the contraction of the standard working week was two-fold: to reduce unemployment and achieve a better division of labour; and to increase workers’ personal time. In 2004 and 2005, the 2000 work-time amendments were partially undermined by a conservative French government,\textsuperscript{113} which legislated for successive increases in permissible overtime. It is difficult to compare the Australian and French labour market and economy, due

\textsuperscript{107}Ibid 2-3.
\textsuperscript{108}Ibid 5.
\textsuperscript{109}Ibid 7.
\textsuperscript{110}This was spurred by a marked increase in the average working week in 2009, with full-time Australian workers averaging 44 hours: Fear and Denniss, above n 84, 2.
\textsuperscript{112}This was introduced by under Prime Minister Lionel Jospin’s Plural Left government; prior to this the standard working week was 39 hours. The idea for the 35-hour working week was initially developed as part of the Socialist Party’s 1981 electoral program, titled \textit{110 Propositions for France}. Thirty-five hours was legislated as the legal standard limit; hours worked above this are classified as overtime.
\textsuperscript{113}Jean-Pierre Raffarin, a conservative, served as the Prime Minister of France from 6 May 2002 to 31 May 2005.
to significant innate differences that are outside the scope of this thesis to explore.\textsuperscript{114} However, in the French context the indicators were that the changes had the effect of lowering unemployment and elevating ‘general happiness’.\textsuperscript{115} The rapid change in government and consequent amendment to the laws makes a comparative analysis unfeasible. This is particularly so given the advent of the Global Economic Crisis, which had a disproportionate, negative impact on parts of the world, including Western Europe (although France is assessed as having fared comparatively better than its European Union counterparts).\textsuperscript{116} In contrast, in the United States, the dominance of the unencumbered worker model has resulted in heightened levels of unemployment.\textsuperscript{117} Poelmans writes of the United States’ jobless recovery phenomena, whereby ‘productivity is so high that millions of people are unable to find employment’.\textsuperscript{118}

The suggestion by research participants that having more role models that demonstrate the potential contribution made by those working a shorter working week would be helpful finds some support in the literature, where writers note that inroads into the work-family crisis may be made by leaders changing their workplace cultures by example.\textsuperscript{119} Yet other scholars note that the number of high profile women in public life create the illusion that the battle for equality has been won, when we are actually ‘going backwards’.\textsuperscript{120} This chapter argues that more demonstrated examples of part-time work and job-sharing will not solve the problem and may in fact concentrate more workers in precarious employment. Further, research has highlighted the difficulties, in the current market, for a single company to unilaterally decrease

\textsuperscript{114} The French industrial relations system has a number of features that are inherently different to Australia, such as the regulations that pertain to the hiring and retrenchment of workers, and the option to ‘annualise’ working hours, that have a significant impact on issues such as unemployment levels.
\textsuperscript{115} Cannold, above n 26, 299-301.
\textsuperscript{117} Poelmans, above n 13, 466.
\textsuperscript{118} Ibid 466.
\textsuperscript{119} Mitchell, above n 38, 161.
\textsuperscript{120} Berns, above n 20; Summers, above n 50.
its hours of work.\textsuperscript{121}

This chapter argues that the uniform implementation of a shorter working week would significantly assist parent-only carers. It would enable them to care for their children while maintaining ‘standard’, career-track employment with the associated benefits and entitlements. It would facilitate shift-parenting, enabling many parents to share the care of their children,\textsuperscript{122} with areas of overlap covered by the other proposals outlined in this chapter. While the literature has considered the reduction of the working week in terms of scaled back hours – the most obvious way, consistent with current measures of work, to reduce the scope of work – it is envisaged that the reconceptualisation of work productivity to a focus on output, rather than time worked, would ultimately result in a reduction in the ‘standard’ working week by reference to the tasks, projects or client-load to be managed or accomplished. As Coote et al note:\textsuperscript{123}

Of course, moving from the present to this future scenario [of a 21 hour working week] will not be simple. The proposed shift towards 21 hours must be seen in terms of a broad, incremental transition to social, economic and environmental sustainability. Problems likely to arise in the course of transition include the risk of increasing poverty by reducing the earning power of those on low rates of pay; too few new jobs because people already in work take on more overtime; resistance from employers because of rising costs and skills shortages; resistance from employees and trade unions because of the impact on earnings in all income brackets; and more general political resistance that might arise, for example, from moves to enforce shorter hours.

The London New Economics Foundation (NEF) is presently working on developing a new economic model designed to gradually transition from present norms to the 21-hour model and to help to engineer a ‘steady-state’ economy.\textsuperscript{124} The infancy of this area of thought, the work yet to be done, and the resultant inability to offer definitive solutions at this time, is acknowledged.\textsuperscript{125} However, the NEF offers a range of innovative ideas, including taxation and
restructuring of benefits, carbon trading, changes to public services, development of child-friendly spaces that facilitate caring and community, job-sharing, limits on overtime and properly flexible working conditions, which resonate with and extend some of the proposals developed in this thesis. Coote et al note:  

There are some signs of favourable conditions beginning to emerge for shifting expectations about a ‘normal’ working week. Further changes that may help include the development of a more egalitarian culture, raising awareness about the value of unpaid labour, strong government support for uncommodified activities, and a national debate about how we use, value, and distribute work and time.

We are at the beginning of a national debate. The next step is to make a thorough examination of the benefits, challenges, barriers and opportunities associated with moving towards a 21-hour week in the first quarter of the twenty-first century.

**Job security**

A significant issue for parent-only carers is the lack of job security of non-standard work. This issue is not the exclusive concern of parent-only carers; rather, as Owens and Riley document, job security is ‘one of the most common concerns of workers in the new economy’. Chapter 8 has discussed the precariousness of non-standard work. This is a significant issue that goes to the heart of equality – the law’s protection is afforded to ‘standard’ workers; ‘non-standard’ workers often fall outside the ambit of legal protection.

The development of a decreased standard working week would go some way to addressing the problems created by the demarcation between standard and non-standard workers. While addressing the plight of non-standard workers who lack job security is often discussed in the literature, the solutions to date have not provided an adequate solution. As Fudge and Owens caution, one proposed ‘solution’, the conversion strategy (whereby casual employment is converted into standard employment), is problematic as it offers an individual solution to a

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126 Ibid 3.
127 Owens, Riley and Murray, above n 41, 473.
129 The right of elect to convert from casual to permanent employment which existed in the Workplace Relations Act 1996 (Cth) was abolished by s 515(1)(b) of the WorkChoices Act. It was re-enlivened by the Fair Work Act 2009 (Cth): See Award Modernisation (2008) 177 IR 364 at [51]. Creighton and Stewart, above n 93, 203.
structural problem by simply redrawing the line between precarious and standard employment, without eliminating precarious employment. Another proposed ‘solution’, discussed by Owens, is to guarantee all workers pro-rata entitlement to fundamental workplace rights. This would bring all Australian workers within the ambit of the protections currently offered by labour law and so is in accord with the proposal by the International Labour Organisation that part-time workers receive the same protection accorded to comparable full-time workers, including proportional wages and benefits. However, while it would reduce the precariousness of non-standard work, it would not remove the demarcation between standard and non-standard work, which is problematic for parent-only carers as the comparator remains the unencumbered worker. Thus, neither of these proposals constitutes a solution. This chapter argues that the development of a new work paradigm offers a way forward, which would remove the demarcation between precarious and standard employment by establishing a new worker norm that enables parent-only carers of young children to work. The distinction between standard and non-standard workers (and thus jobs with and without job security) would thus be nullified.

To this point, this chapter has considered two related proposals, the development of a new work paradigm and the institution of a shorter standard working week. The third and final proposal, which will now be discussed, is the development of the discourse on children and parenting at the work-parenting interface.

C: Developing a more sophisticated discourse on children and parenting vis-à-vis work

The final change this thesis proposes is to enrich the discourse on the interface of parenting and work with a deeper, more sophisticated understanding of the issues relevant to the work-family divide. This research challenges as dated the notion of the ‘stay-at-home’ mother which

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130 Fudge and Owens, above n 11, 27. Further, Creighton and Stewart note that there is little indication conversation rights have any substantive effect in decasualizing the workforce, given the ‘few reported instances of casuals even asking for conversion, let alone getting it’: Creighton and Stewart, above n 93, 203.


still permeates society and shapes parenting and work expectations. This section argues that there are significant social and economic benefits associated with the inclusion of the skills and contributions of parents of young children in the workplace and the involvement of their children from infancy in a world of which work is part. This section sets the context by exploring the anti-child discourse and practices that presently permeate society and the implications of this for workplace culture. It then considers the potential for integrating children into the workplace, concluding with a discussion of some of the present limitations in this regard.

**Exploring the participants’ perspective that they are working in a predominantly child-intolerant society through the theoretical and reflective literature**

Kitzinger argues post-industrial culture is inhospitable to children. She explains: ‘Western culture is anti-motherhood... Mothering (and fathering) has to be fitted into the cracks between all the important, solid stuff of social life, such as politics, economics, commerce, and industry’.\(^{133}\) Hoschild notes that, despite contrary rhetoric, the cultural climate ‘has become subtly less hospitable to parents who put children first’, with a ‘job culture’ thriving at the expense of a ‘family culture’.\(^{134}\) Williams contends that separate spheres ideology ‘affects our politics in particularly destructive ways. Its relegation of child rearing to the private sphere intimates that the republic has no responsibility to play in raising its next generation of citizens’.\(^{135}\) Stefancic extends on this argument to note that children have become a ‘devalued commodity’ due to the expense of raising them, with widespread ‘antipathy towards children’.\(^{136}\) Coote et al similarly note:\(^{137}\)

... the effect of a significant shift of time-use towards family settings would not simply create more time for ‘parenting’... it could also change the way we all think about the worlds of adults and children, and relationships between them. By appropriating so much adult waking time for paid work, they cast home and family in a subordinate role, supporting the formal economy – with invidious effects on parent-child relationships.

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\(^{133}\) Kitzinger, above n 64, 3-6.

\(^{134}\) Hochschild, above n 6, 231.

\(^{135}\) Williams, above n 10, 4.


\(^{137}\) Coote, Franklin and Simms, above n 90, 20.
As the literature and the participants in the study concur, the interface for parent-only carers is fraught with challenges in a society that does not prioritise the care of young children. One research participant spoke strongly of the need for employers to be willing to look at the issue of working roles and conditions in a broader way. The hope and expectation is that this research will facilitate this ‘willingness’ by enriching the discourse on children and parenting vis-à-vis work, by raising awareness of the impact and implications of separate spheres ideology. At present, this is an implicit rather than explicit notion, rarely dealt with in the public arena. It needs to be clearly articulated, openly debated and entered with sophistication into the discourse on public life.

Research on the ‘child-unfriendliness’ of the built environment is also relevant to this consideration of the integration of children into the workplace. Scholars such as Gleeson have called for the development of more child-friendly Australian environments and communities. Gleeson’s starting point is that Australian urban policy has historically ignored, or at best understated, children’s issues, with the result is that the Australian built environment is among the most hostile to children in the world. Gleeson argues for a shift in perspective, to reinstate children and families at the centre of the discourse on the built environment, and provides an accompanying analysis of urban conditions and renovation of the built environment. Some appropriate changes are relatively minor in nature but would have significant implications for the ability to integrate work and parenting. Some participants noted that, despite their desire to bring their child to work, they had concerns about the ability for their workplace to accommodate their child. If work is restructured to enable tasks to be performed on a flexible basis, at a flexible location, many jobs could be completed outside of the workplace environment. Where the worker’s presence is needed at the workplace, a more welcoming and child-friendly environment could sustain the presence of the child for such periods.

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139 Woolcock, Gleeson and Randolph, above n 138, 179.
140 Gleeson and Sipe, above n 138, 2.
Examining the proposal to integrate children into the workplace in the context of the literature

Innovative work on time management and multi-tasking by mothers is relevant to this discussion of the integration of parent-only care and work. Morehead and Daly argue that the traditional view of work-life conflict stems from the assumption that family and work compete for time, with scant research considering whether mothering and working is simultaneously carried out. Morehead demonstrates that during the same period of time mothers can achieve productive work and parenting outputs. Similarly, Daly’s research demonstrates that mothers ‘time-deepen’ (do more in less time) and multi-task (do many actions at once). Other scholars have also noted that mothers multi-task in a way that makes concurrent work and childcare possible. Thus, the integration of parent-only carers with young children into the workforce can have positive outcomes for both work and family over the same period of time.

Relf-Canas’ article, ‘Babies in the boardroom: five women who brought their children to their jobs – with wonderful results!’ provides detailed examples of the way parenting and work can be practically integrated. Giving disparate examples of retail business owners, a corporate director, a farmer and entrepreneur and a website operator, Relf-Canas argues that bringing babies and young children to work is a practical option for many workers. While many jobs have particular aspects that may make concurrent childcare difficult, as one of her interviewees

143 Morehead, above n 141, 358. The ABS time-use surveys are the primary means of information in this regard and only record the ‘dominant’ activity recorded: Morehead, above n 141, 359.
144 Morehead, above n 141, 359.
145 Discussed in Zvonkovic, Notter and Peters, above n 142, 159.
147 Katherine Relf-Canas, ‘Babies in the boardroom: five women who brought their children to their jobs – with wonderful results!’ (2005) Mothering Magazine 58
explains: ‘[t]here are a few things you can't do with a baby.’ Another explained that working in the child’s presence is unproblematic 80 per cent of the time, with 30 minute absences from the workplace to take the child to the park or the help of her husband or fellow staff utilised during the remainder. Relf-Canas argues that the minor difficulties associated with accommodating the child’s presence are outweighed by the child’s value in ‘enlivening’ the atmosphere of the workplace. Another interviewee put the success rate higher, saying:

Ninety-five per cent of the time it was wonderful. [I] mastered the art of multitasking, talking on the phone’s headset while [breastfeeding], meeting with co-workers while [child was] playing on the floor, even speaking in public [to a 3,000 person conference] with [child] in a backpack. My staff welcomed [child] and her presence did not affect their productivity. In fact, they said it enlivened our office.

Hewlett argues that positions unable to accommodate parent-only care are in the minority. However, it must be acknowledged that there are presently limitations associated with many careers and workplaces that would make the integration of parenting and work difficult. As some research participants noted, and the literature documents, there are some jobs that preclude parenting. Occupational health and safety issues associated with some work environments can preclude the presence of children and employers have a common law duty of care to ensure workers’ safety. These limitations are not an argument for not addressing this issue, but rather inform the complexity of the discourse in which we need to engage. As Hewlett states:

[T]his issue should not be confused with the concrete, practical problems most working women face... The great majority of all jobs could be combined quite satisfactorily with child-rearing if more supportive policies were adopted in the workplace and by governments....

Enriching and progressing the discourse beyond the confines of separate spheres ideology requires an open exploration of all considerations at the interface of parent-only care and work.

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148 Hewlett, above n 54, 332.
149 Mitchell, above n 38, 167.
150 Creighton and Stewart, above n 93, 456-7. It is recommended that this duty be statutorily enshrined: Model WHS Bill, Part 2, clause 19(1).
151 Hewlett, above n 54, 332.


Conclusion

There remains much work to be done to move towards the integration of parenting and work. Despite some high profile examples of women ‘having it all’, there remains significant gender inequality in the Australian labour market with the battle against discrimination yet to be won. This is particularly so for parent-only carers, who seldom occupy jobs outside the precarious work realm. As Jacobs and Gerson argue, there are ‘a myriad of possible approaches to address the dilemmas created by work and family change’. There are no ‘quick fix’ solutions. It is a highly complex problem, involving consideration of a number of different variables each of which have their own complexities. At the same time, it is a deeply important issue, with the current inadequate model marginalising parent-only carers from the labour market and compromising the Australian economy due to decreased workforce participation by parents of young children, loss of a pool of trained and talented workers upon the birth of children and increased welfare reliance. There are also significant concerns that the current work-spend culture is increasingly at odds with sustainability. As such, the situation warrants an innovative, holistic approach. Solutions must come from a ‘national debate that extends beyond cultural critiques and a framework of parental blame to reconsider workplace organization, community support, and the structure of opportunities confronting workers and their families’.

In this chapter, a new work and parenting framework has been proposed, to be implemented holistically through three inter-related changes to the current work paradigm. The trilogy of reforms – the development of a new work norm, a reduction in the scope of work and associated diminishing of the demarcation between standard and non-standard work, and a shift in perspective on the role of children vis-à-vis the workplace – require a significant societal shift in certain respects. The proposals require legal reform to existing legislation and industrial

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152 Summers, above n 50, 199-224.
154 Jacobs and Gerson, above n 23, 201.
155 Charles Birch, Life and Work: Challenging Economic Man (UNSW Press, 2003), ix; Gambles, Lewis and Rapoport, above n 16, 44, 98.
156 Jacobs and Gerson, above n 23, 201.
agreements. They also require a transformation in workplace culture to ensure they are not, as the flexible working arrangement innovation has been, only theoretical rights that are not practically enforced.  

Further, they challenge prevalent social attitudes, assumptions and beliefs about gender roles, work roles and parenting roles. The proposals represent a fundamental challenge to the present structure of the labour market insofar as they are not measures that are only available to carers, but are designed to alter the structure of work for all workers.

Two decades ago, the Australian Institute of Family Studies proposed some ways for ‘making a start’: developing a comprehensive and coherent work and family policy, redefining work and family issues as a community concern, not a women’s issue, increasing men’s involvement in work and family and changing the corporate culture. These remain sound (and as yet undeveloped) proposals. More recently, Cannold argues that what mothers need is ‘a full array of relationship, economic and employment options, and the resources and freedom necessary to select from among them according to their own values’. This chapter has developed a framework to achieve this desired structural change.

As the problems are complex and the norms which the research seeks to change are structurally ingrained in society, the challenges are significant. Yet as Coote et al remind us:

> There are many examples of apparently intractable social norms changing very quickly – for example, attitudes to the slave trade and votes for women, wearing seatbelts and crash-helmets, and not smoking in public places. The weight of public opinion can shift quite suddenly from antipathy to approval as a result of new evidence, strong campaigning, and changing circumstances, including a sense of crisis.

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159 Wolcott and Australian Institute of Family Studies, above n 56, 62-3.

160 Cannold, above n 26, 282.

161 Coote, Franklin and Simms, above n 90, 3.
The integration of work and parenting is a significant issue with ramifications not only for parent-only carers and their children but for all people, society and the economy. It is important to make a start by placing this issue on the public agenda. As Hewlett concludes: ‘this is an important policy area in ... public life worthy of serious attention’. ¹⁶²

The next and final chapter will provide an overview of this thesis, noting the original contribution to knowledge which it makes. The final chapter will also identify areas of potential for further research and offer some concluding thoughts.

¹⁶² Hewlett, above n 54, 310.
Chapter 11: Conclusion

Introduction

The core concern of this thesis has been to explore the lived experiences of parent-only carers in terms of their work choices. This research has taken a phenomenological approach in seeking to understand the experiences, problems and desires of parent-only carers as regards labour market participation, in the context of an understanding of key assumptions and ideas in the literature and in Australian political rhetoric. The research has explored the impact of separate spheres ideology on the work and parenting arrangements of parent-only carers. It has also considered both the rhetoric and the reality of ‘choice’, to ascertain the key factors that facilitate or inhibit choice regarding participation in the labour market by parent-only carers of young children.

This qualitative exploration of the experience of parent-only carers at the interface with labour market participation has been set within a multi-disciplinary exploration of relevant issues through an in-depth review of the legal, sociological, historical, parenting and child-development literature and an extensive review of the relevant laws and legal framework, as well as industrial measures and government policy.

The phenomenon of parent-only care as it interfaces with labour market participation is an under-explored area, despite the significance of this issue for parent-only carers, the labour market and the Australian economy. As Daly states:¹

If we as a society take seriously children’s need for parental care, it is time to stop marginalizing the adults who provide it. The current structure of work is not immutable: it was invented at a particular point in time to suit particular circumstances. Those circumstances have changed.

By exploring and documenting this phenomenon, this thesis has made an important contribution to knowledge.

¹ Mary Daly, The Gender Division of Welfare: The Impact of the British and German Welfare States (Cambridge University Press, 2000).
An overview of the thesis

The literature establishes the significant problems for all parents in the workforce that flow from the perpetuation of the unencumbered worker model around which the current labour market is based. However, the perspectives of parent-only carers are not adequately represented to date in such literature. This thesis has addressed this dearth by the presentation of rich insights into the experience of parent-only carers at the interface with work, accompanied by practical proposals of ways to move forwards in this area. Thus, Chapters 3 and 4 were devoted to documenting the phenomenon of parent-only care, using the methodological framework of descriptive phenomenology to understand the participants’ lived experiences at the work-parenting interface. The defining feature of parent-only care is simply the absence of non-parental care. Parent-only care families comprise those where one parent (usually the mother) provides the majority of the care as a primary parent – this arrangement is generally found in nuclear families modelled in accordance with the traditional ‘breadwinner’ model and in sole parent families. Families where the care is shared between parents (shift-parenting) are also covered within the definition of parent-only care.

Parent-only care does not align with a particular ‘parenting style’. However, there are some common features that emerge from the participants’ descriptions of what parent-only care meant to them. Key features of parent-only care, as articulated by the research participants in the individual interviews and affirmed in the focus group, were time spent with the child, recognition of the importance of the parent’s presence for the child, availability and responsiveness to the child and developing a strong bond with the child. The majority of research participants offered an explanation of their motivations for deciding to provide parent-only care, as part of their explanation of what parent-only care meant to them. As the thesis argues, parent-only carers are presently significantly marginalised within the labour market and thus the decision to provide parent-only care is often made in the face of knowledge of the limiting effects, on their career and on family finances. As such, it is unsurprising that the reasons driving the decision to provide parent-only care were important to the participants and featured prominently in their stories. The motivation to provide parent-
only care was differently sourced for different parents. For some, it was intuitive or instinctive to them, for some it was based on their own childhood experiences, for others it was the result of philosophical enquiry or education. Core considerations motivating the decision to provide parent-only care included what the parent(s) considered best for their child, considerations pertaining to breastfeeding the child, the desire to ‘not miss out’ on significant parts of their child’s early childhood, a strong belief in the importance of their child’s early childhood experiences, and the participants’ assessment of the alternatives to parental care for young children.

This final factor was the subject of significant discussion and this is unsurprising, given that it is this feature that distinguishes parent-only carers from other groups of parents. Chapter 4 set out the empirical findings on the unwillingness by parent-only carers to outsource the care of their young children, providing insight into their stated rationale for this. This chapter also presented the findings on the expectations held by parent-only carers about childcare and the experience of those who had used childcare for their young child. Such findings were set within the context of the literature on early childhood and child development. The chapter also considered the widespread use of informal care arrangements in Australia and the participants’ perspectives on the use of such arrangements in contrast to the use of formal childcare. The chapter concluded with a discussion of the participants’ perspectives on providing parent-only care ‘in the age of childcare’; in a society that they perceive supports workforce involvement in a manner consistent with the separate spheres model over the provision of parent-only care.

While labour market participation is not a defining characteristic of parent-only care, the research interest is with the interface between parent-only care and work. Thus, Chapter 5 was devoted to an exploration of the phenomenon of work for parent-only carers. It discussed the meaning and importance of work for parent-only carers, the reasons why work is important and the consequences for parent-only carers marginalised from and within the labour market.

It was to the documented ‘clash’ between work and parenting to which the discussion then turned, with Chapter 6 examining the growth and stranglehold of separate spheres ideology in
Australia. The individual interviews and the focus group generated rich data on the participants’ perspectives on the barriers to the integration of work and parenting which results in the marginalization of parent-only carers from the workforce. A significant majority of participants considered that the heart of the problem lies with societal and workplace mindsets about the nature of work and the nature of parenting. While there are some recognized practical issues marring integration, the research participants perceived that parent-only carers are marginalized both from and within the labour market because of workplace culture and social assumptions and biases, rather than any immutable features of most working roles. The privileging of work over parenting is considered to be part of this mindset. Chapter 6 presented the sociological and historical literature on the development of separate spheres ideology. It also traced the development of its core actors, the unencumbered worker and the domestic support worker. This chapter brought research from a diversity of different disciplines together to explain the socially constructed and contingent nature of the current hegemonic work and family matrix. It argued that there are a number of different factors that shape the ways in which notions of work and parenting are constructed for any epoch. The rich literature on the historical and sociological influences on Australian attitudes and culture, philosophical discourse on the nature of women as mothers and legal regulation was used to explore these participant insights. Chapter 6 concluded by considering the need for a more integrated approach.

Chapter 7 presented the research findings on the notion of choice at the interface of parent-only care and work, contextualising the finding that parent-only carers predominantly lack choice to work within an understanding of the rhetoric of choice as a means of masking the systemic nature of the problems inherent in this phenomenon. A significant majority of participants perceived that they lack choice both at the point of entry to and within the labour market while providing parent-only care. Choice to work was reported by a minority of participants, yet this was strongly correlated to the level of education, socio-economic status and work and family support network of the parent, and therefore concerning as an equality issue. After discussing the findings on choice, this chapter reflected upon the illusory nature of the presumption that individuals exercise autonomous choice at the work-parenting juncture. A
documented consequence of separate spheres ideology is that women can and, it is asserted by some theorists, should choose between the realms of work and family. However, there is a significant body of literature that establishes the falsity of the notion of choice for parents at the work interface. This literature supports the argument that the rhetoric of choice is propagated to camouflage the lack of real choice available to parents, particularly parent-only carers, in terms of work and the structural and ingrained nature of the problems at the work-parenting interface.

The separate spheres model has been developed, affirmed and enforced by Australian labour law and the federal and state industrial systems. A key component of this has been the development of legal and industrial measures designed to facilitate the detached co-existence of the realms of work and parenting in the lives of parents. Such measures, which were discussed in Chapter 8, include parental leave, flexible or ‘family-friendly’ working arrangements and non-standard work. Each of these measures are well entrenched in the Australian industrial system. These measures purport to assist parents to manage the work-family interface. However, this chapter argues that brief absences from the workforce, the ability to request flexible working conditions and concentration in non-standard, insecure and precarious work do not resolve the structural issues that marginalize parent-only carers from and within the workforce. Rather, they actually deepen the marginalisation of parent-only carers by entrenching the dominance of separate spheres ideology through the affirmation of the segregation of work and parenting implicit in these measures.

Chapter 9 furthered the analysis of the legal and industrial framework, focusing on anti-discrimination and equal opportunities law and labour law. This chapter argued that the marginalization of parent-only carers from and within the labour market is inconsistent with equality, which is part of the ideological underpinning of the Australian socio-legal framework and expressly recognised as a core objective underpinning the enactment of federal legislation including the *Sex Discrimination Act 1984* (Cth).² This is particularly so given the correlation

²See section 3(d) of that Act, which explicitly defines the object of that Act as including ‘to promote recognition and acceptance within the community of the principle of the equality of men and women.’
between parent-only care and gender and the resulting sexually discriminatory practices.

Chapter 9 considered the way in which separate spheres ideology is structurally engrained and largely immune to challenge within the Australian legal framework, notwithstanding that the legal system is premised upon a commitment to equality and justice and is designed to foster the autonomous choice of all Australians to participate in the workforce. The chapter examined the legal response offered by Australian law to parent-only carers marginalised from and within the workforce, tracing its philosophical and international legal origins. The chapter acknowledged the mild normative effect of anti-discrimination law in influencing the baseline social acceptance of overt discrimination, yet argued that it is inadequate as a means of addressing institutionalized and systemic discrimination. This chapter critiqued the current anti-discrimination and equal opportunities framework and explained the reasons for its failure to provide recourse for aggrieved parent-only carers. The chapter concluded that the legal framework is inadequate as a vehicle for the achievement of the structural change necessary to cease the marginalization of parent-only carers from the labour market and argued that a broader socio-legal response is required.

It is to this concern that Chapter 10 was devoted, offering a model aimed at moving towards the integration of parent-only care and work. This model is comprised of a trilogy of proposals: first, the development of a new work paradigm, which moves away from the traditional time-based approach to a focus on output and effectiveness and an embrace of the properly flexible conditions that globalization and the technology revolution have made possible and, in many cases, desirable. Second, the chapter called for a reduction in the scope of the ‘standard’ working week, to challenge the increasing dominance of paid work in the lives of Australians and enable families to achieve greater equality and balance in their lives. Finally, the chapter proposed the development of a more sophisticated discourse on children and parenting at the interface with work, to enable, in conjunction with the other proposals made, the seamless integration of work and parenting. The chapter argued that it is imperative that a holistic approach be taken to enable the significant structural change required to be achieved. To date,
most of the ‘solutions’ proffered for this recognizably complex issue have focused on parent-specific measures.\(^3\) This thesis argues for a more holistic approach.

The research documents that parent-only carers face not only the same difficulties experienced by all parents of young children; the difficulties are exacerbated by the fact that their approach to the care of their young children is not recognized nor accommodated in the present framework, which results in their marginalization from and within the labour market. The legal analysis explains the politico-legal origins of this phenomenon and the limits of the law as a means of securing equality or providing redress for marginalized workers.

**This thesis’ original contribution to knowledge**

This research makes an original contribution to knowledge by offering a new perspective to a well-established debate. The conflict between work and parenting, and the deleterious effects of this conflict, is now well recognised in the literature. However, the focus to date has been on measures that assume parents’ choices align with the separate spheres model. Scholars have not challenged the fundamental division between the realms of work and parenting, nor have they considered the effects of the dominant separate spheres ideology in marginalising a significant subset (parent-only carers) from the labour market. Much of the work-family research conducted to date is ill-suited to addressing problems in the work-family realm brought about by the changing demographics of family composition and workforce participation in Australia. The extant scholarship has largely failed to address the inevitable conflict separate spheres ideology creates between parenting and work in the era of the dual income family,\(^4\) nor has it adequately considered the perspectives of parent-only carers within or outside the labour market.\(^5\)

\(^3\) For example, the industrial measures outlined in Chapter 8.
\(^4\) Lesley Cannold, *What, No Baby? Why Women are Losing the Freedom to Mother, and How They Can Get it Back* (Curtin University Books, 2005), 156.
\(^5\) S Desimone, ‘Exploring the effects of guilt, spousal support and role conflict on the psychological well-being of the educated full-time stay-at-home mother’ (2001) 62(3) *Dissertation Abstracts International* 1316A; T Zimmerman, ‘Marital equality and satisfaction in stay-at-home mothers and stay-at-home fathers’ (2000) 22 *Contemporary Family Therapy* 337. There are some exceptions, for example see Rubin and Wooten’s qualitative
This research advances knowledge by exploring and documenting a new perspective, that of parent-only carers vis-à-vis labour market participation. This research focus fundamentally challenges the present dominant structural framework and many of the assumptions that underpin it, including both the inevitability and appropriateness of this framework. This thesis bridges disciplines and draws together a diversity of literature to demonstrate the socio-politically constructed and contingent nature of the present framework. Through this approach, the work-family debate can be reframed in a way that is inclusive of the diversity of perspectives that comprise contemporary Australian society and the potential for, and desirability of, structural change can be understood. This is imperative, whether considered from a progressive, economic, legal, ethical or social justice and human rights perspective.

The qualitative findings provide in-depth insights that can contribute to exploring the experience of, and possible solutions for, parent-only carers at the work interface. There are also some important broader implications that arise from the literature review and legal analysis. The proposals developed in the final part of this thesis have the potential to benefit not only parents, children, society and the economy, but other carers (such as those caring for aging, disabled or ill relatives), as well as other groups that are marginalized within the present labour market (such as those discriminated against on the basis of age).

This study has made an original contribution to knowledge in understanding and documenting as yet under-explored issues in the following areas:

- Exploring and documenting the phenomenon of parent-only care;
- Explaining why childcare is not a solution to work-family issues for all Australian parents of young children and showing how the dominance of the assumption that it is a solution has the effect of marginalizing parent-only carers vis-à-vis labour market participation;

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study explores the lived experience of 10 mothers who have earned graduate degrees and have chosen to be stay-at-home mothers: Stacey Rubin and H Ray Wooten, ‘Highly Educated Stay-at-Home Mothers: A Study of Commitment and Conflict’ (2007) 15 The Family Journal 336.
• Understanding the needs and desires of parent-only carers with respect to labour market participation;
• Examining the factors that facilitate or inhibit entry to the labour market, and maintenance of labour market involvement, by parent-only carers;
• Drawing together anthropological, sociological, historical, philosophical, legal and feminist literature to demonstrate the constructed and contingent nature of work and parenting norms and the separate spheres model and challenging this model as a vehicle for the attainment of equality;
• Showing that choice at the interface of parent-only care and work is merely rhetorical due to systemic, structural issues associated with the current legal framework, with parent-only carers denied real choice to actively participate in the labour market;
• Establishing that the current industrial measures offered to assist parents to manage the work-parenting interface do not assist parent-only carers to work and in fact, by their alignment with the separate spheres model, further entrench their marginalization from and within the workforce;
• Demonstrating that the current legal and industrial paradigm fails to offer choice and equality to most parent-only carers;
• Showing that there is a socio-economic divide whereby some workers are valued so highly as to be given the flexibility that allows them to achieve some measure of integration of work and parent-only care, whilst the majority of workers are not so accommodated;
• Showing how regulatory power is a framework within which different work and parenting norms are prioritized for a particular epoch;
• Drawing on the relevant literature and legal analysis to show how present ways of framing work and parenting norms are open to change and arguing why such change is both desirable and necessary, particularly in the face of increasing globalization and deregulation;
• Developing a trilogy of proposals that cumulatively offer a fresh approach to labour market organization in a way that has the potential to cease the marginalization of parent-only carers (and indeed, has broader positive implications).

A strong proposal from this study is to translate these findings into a knowledge base that can be absorbed for policy reform. That this thesis has already received media interest provides optimism that this research has the potential to be agenda-setting work that can positively contribute to public discussion and work-family change.

The intersection between work and family, explored through the eyes of parent-only carers, is an area of critical importance at present. The particular areas of concern that have been noted include the disjuncture between the documented desire by the majority of Australian parents to provide parent-only care for their young children and reality that a minority of children receive parent-only care for their first three years of life; that many parent-only carers who want and/or need to work are denied this because of their parenting responsibilities; the inconsistency between the present model and the commitment to equality and justice that underpins our socio-legal framework; declining fertility; the need for workers from an economic perspective, and to fulfil particular skill-shortages; the potential contribution parent-only carers can make to the labour market; the adverse consequences for men and underprivileged workers created by the separate spheres model; and the challenge to the role of caring in our society.

**Suggestions for future inquiry**

As detailed in Chapter 2, this thesis has taken the methodological approach of descriptive phenomenology because of the dearth of research on parent-only care at the interface with labour market participation. Phenomenology is appropriate for exploring the lived experience of people in an area where there is scant previous research. This research has endeavoured to

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6See for example radio interview with Marija Jovanovic, Radio Adelaide, 7 May 2008; newspaper article by Kelmeny Fraser, ‘Mothers face tough choices’ The Sunday Mail, 2 August 2009; interview with Helen Pow, Sunday Telegraph, 4 May 2011.
map the phenomenon of the choice of parent-only carers at the interface with labour market participation. The important role of qualitative findings is to provide in-depth insight into a phenomenon to document the complexity of issues, highlighting important issues for consideration.

This research should be viewed as the first step in what needs to be a program of research to address these issues. The appropriate next step is to extend the consideration of some of these issues through further research.

The work-family area is in its research infancy. Poelmans notes that, despite the wealth of anecdotal evidence, there is a lack of scientific research in the work-family realm, with many gaps among the mere ‘pockets of research’ completed to date. He concludes: ‘… we have to conclude that the field of organizational work and family research is still in its infancy. Many gaps still need to be filled, and some fundamental research still needs to be initiated.’

There is a need for further qualitative and quantitative research examining, inter alia, different types of work; different industries; the impact of different geographical, cultural and ethnic factors; the experiences of working class families; different family compositions; the perspectives of policy-makers and employers; and relevant occupational health and safety issues. As Gambles et al note, the challenges associated with harmonizing work and family

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8 Poelmans, above n 7, 439-440.
9 Ibid 449.
10 As Neal et al note, ethnicity is a complex cultural variable that is difficult to analyze as it is associated with geographical, occupational, socio-economic, educational and cultural differences. They note that the impact of these variables on work-family conflict has not been adequately explored: Margaret Neal, Nancy Chapman, Berit Ingersoll-Dayton, et al, Balancing Work and Caregiving for Children, Adults and Elders (Sage Publications, 1993), 62.
11 This is particularly important given that, as Pocock notes, many Australians do not live in traditional nuclear families: Barbara Pocock, The Labour Market Ate my Babies: Work, Children and a Sustainable Future (The Federation Press, 2006), 21-22.
responsibilities are greatest for the ‘least privileged and most vulnerable members of society’.  

Stefancic similarly notes: ‘[w]hen faced with a choice of where to allocate time and resources, my heart lies with the working class. There, life itself is at stake, not wealth, status, or career’. 

It is thus imperative that the voices of these groups be heard and documented. There is also a need for economic analysis of the ‘business case’ for change, the practicality of implementing different ‘solutions’ and the potential for taxation reforms. The feasibility of incorporating existing lessons from other jurisdictions must also be evaluated. Two examples that warrant exploration in this regard are Collins and Hepple’s doctrine of social inclusion and solidarity, discussed in Chapter 9, and the European flexicurity model outlined in the preceding chapter.

Other potential areas for future research focus include an ecological or systems-based approach to work-family issues, which involves considering work-family issues in a broader context. This is quite distinct from the individualist or intra-familial approach that has dominated work-family research to date and has the potential to significantly broaden the research agenda in this area. An expansion of this perspective also has the potential to put issues identified by this thesis on the research and policy agenda (such as problems associated with the rhetoric of choice). Further, there is increasing recognition that the present work-family matrix can result in systemic discrimination – this is likely to be an area of future research.

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15 As Drago and Golden note, economic models are useful in understanding individual and household decision making regarding labor force participation; the types of jobs sought or taken to combine work and family; the number of hours of preferred each day/days worked each week/weeks worked each year; the price paid by workers who wish to prioritize time and effort for family and caregiving activities; and the bias associated with excluding the value of unpaid work in our measures of aggregate ‘production’ and GDP: Drago, Robert and Lonnie Golden, ‘The Role of Economics in Work-Family Research’, in Marcie Pitt-Catsouphes, Ellen Kossek and Stephen Sweet (eds), *The Work and Family Handbook: Multi-Disciplinary Perspectives, Methods, and Approaches* (Lawrence Erlbaum Associates, 2006) 267, 278.
17 This shift was strongly influenced by the work of Bronfenbrenner (1986, 1979, 1997), who urged that an ecological approach be taken in research on child development: Jennifer Bowes, ‘Emphasizing the family in work-family research: A review of current research and recommendations for future directions’ in Steven Poelmans (ed), *Work and Family: An International Research Perspective* (Lawrence Erlbaum Associates, 2005), 415, 416.
research growth. Smith is pioneering research in this regard, looking at ways to develop a more effective regulatory response to gender equality in the labour market. Such a research focus is welcomed.

There are some industries that are particularly notorious for their exacerbation of the work-family clash and consequent high rates of accession of female workers of childbearing age. These would be apposite as the subject for further study, particularly where there is anecdotal knowledge that this ‘family-unfriendliness’ flows more from the professional culture and history of the profession than from endemic features associated with the requirements of the job. Two notable examples are the disciplines of law and medicine, which, as this thesis has noted, are industries that suffer acutely from the ‘brain drain’ created by the loss of parents, particularly mothers, from the labour market. While writers including Berns and Williams offer both of these professions as examples of careers that would be amenable to modifications that would render them family-friendly, they are presently recognized as professions that are particularly difficult for primary-caring parents.

Further, the research was confined to a consideration of parent-only care in the context of young children from birth to three years of age. This age group was chosen to reflect the literature supporting the benefits of parental care for this age group and also because of the unique needs of this group. It would be helpful to extend the research by conducting studies involving pre-school and school-aged children. Indeed, many of the participants in this research were actively considering and moulding their future working options on the basis of their desire

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to continue to provide parental care in conjunction with formal education (and not to utilize before-school, after-school or vacation care once their child attained school age).

Some proposed ways of gathering further information on work-family issues include a Royal Commission, a ‘listening tour’, community consultations, inviting public submissions and conducting research. Summers emphasises:

We need a fresh start, fresh energies and fresh ideas for the way forward. We need to demand change – and make it happen. That means using political tools, since in a democracy this is the way people change things.

In The Myth of Work-Life Balance: The Challenge of our time for Men, Women and Societies, Gambles, Lewis and Rapoport acknowledge that there are no ‘easy quick fix solutions’, stating: ‘we are only too aware that we have raised many more questions than we have answered. Our aim is not to prescribe but to stimulate wider and collaborative reflection’. It is hoped that this research will stimulate debate in this way. There is scope for a myriad of further research initiatives to help to address the many concerns documented by this thesis. It is anticipated that the proposals advanced in the preceding chapter may play some role in helping to shape the legal and policy response to these issues.

21 Summers proposes the use of a Royal Commission, which is well-established in Australia as a mechanism for informing and advising the government on key issues. She explains: ‘The unique powers of a Commission, to compel evidence and for its findings to have parliamentary status, give it independence, authority, credibility and legitimacy. Political leaders cannot dismiss the findings of a Royal Commission as special pleading or lobbying. These findings stand as evidence, as findings to be treated with seriousness and respect. A Royal Commission can also make recommendations for its findings to be implemented.’ Summers’ vision is that the recommendations of a Royal Commission would become ‘blueprints for reform’, providing the necessary ‘political impetus’ to begin to restore equality: Anne Summers, The End of Equality: Work, Babies and Women’s Choices in 21st Century Australia (Random House, 2003), 266-7

22 Upon appointment, federal Sex Discrimination Commissioner Elizabeth Broderick conducted a ‘Listening Tour’ spanning two months, to inform her of the perspectives of Australian people on the issues and concerns of priority for federal sex discrimination legislation: Anne Summers, Putting Equality Back on the Agenda. Human Rights Oration (ABC Radio National Summer, 14 January 2008).

23 Summers, above n 22.

24 Ibid.

25 Ibid.

26 Summers, above n 21, 265

27 Gambles, Lewis and Rapoport, above n 13, 96
Concluding the conclusion

Williams’ insight: ‘[w]hat’s at issue is not the private frolic of flighty women but the clash of two deeply held social norms: the norm of parental care and the ideal-worker norm’, 28 which opened this thesis, introduced both the subject matter and direction of this research. While her words may have been superseded insofar as parental care is rapidly diminishing as the norm in the Australian childcare landscape, the ‘ideal-worker norm’ remains hegemonic and the clash or conflict that arises at the work-parenting juncture is, if anything, increasingly exacerbated. Further, Williams’ insight introduced another key concern around which this research is based – that despite the popular construction of work-family conflict as a private or intra-familial matter (and one that is chiefly the concern of women), systemic structural problems are at the root of the denial of work choices, both at the point of entry to and within the labour market, for Australian parents of young children.

The marginalization of parent-only carers is particularly poignant in the context of their recognized vulnerability and the fact that their marginalization is the direct result of childrearing. 29 It is exacerbated by the strong correlation between parent-only care and gender 30 and that their marginalization results in other sexually discriminatory practices such as occupational sex segregation, 31 gender pay disparity, 32 concentration in precarious work, 33

28 Williams, above n 20, 85.
30 Cannold, above n 4, 26.
32 Women’s total average earnings are just 66% of men’s: Summers, above n 21. Berns, above n 20, 3, 97; Anne Summers, above n 22; Margaret Adamson, Australian Women Through 200 Years (Kangaroo Press, 1988), 61. The ILO suggests 1/3rd of remaining gender gap is a consequence of discriminatory practices, much of the balance is a
pregnancy discrimination and harassment. Women are disproportionately represented among the poor. The ripple effects of inequality include significant effects on the income of the worker and for the welfare of their family, in an era where the dual income family is not only the norm but the requirement for a reasonable standard of living.

Inherent in many of the participants’ stories was disquiet and dissatisfaction with the present dominant work/caring configuration and a desire for significant structural change. The research participants were united in their belief that the current arrangements at the work and parenting interface are inadequate and damaging and of the need for urgent and substantial reconsideration in this area.

One participant, new to motherhood, worked in human resources and had led her company to receive national recognition for their family-friendly arrangements. She opined that such policies operated genuinely in her company and would allow her to perform project-based work in flexible hours from a location of her choice when she returned to work and to bring her child with her to work on the occasions she would work from the office. The thesis concludes by sharing her optimism. She stated:

Hopefully it will all work out and I won’t feel too torn. Because I do want to go back to work, it is an important part of who I am, but now I have this brand new focus and this gorgeous little being I want to take care of and nurture, so we’ll see how we go. (P20)

consequence of occupational segregation and of the propensity of women to pursue occupations that facilitate PT work: Berns, above n 20, 27.

33 Hepple, Coussey, Choudhury and The University of Cambridge Centre for Public Law and Judge Institute of Management Studies, above n 31, 15.

34 Summers, above n 21, 49; Summers, above n 22.

35 Hepple, Coussey, Choudhury and The University of Cambridge Centre for Public Law and Judge Institute of Management Studies, above n 31, 15.

36 Berns, above n 20, vi.

Griffith University Research Study

Are you interested in participating in a study exploring the interface between work and parenting? This is your chance to have a say. A research study is exploring the factors that facilitate or inhibit participation in the workforce from the perspective of parents of young children who are or wish to be primary parents.

If you:

- have at least one child aged 3 years or under;
- are a primary parent for that child or children; and
- are interested in discussing your views on this topic,

please contact Emma Phillips on 0403 696 506 or email if you wish to obtain further information.
Work and parenting study

Are you interested in participating in a study exploring the interface between work and parenting? This is your chance to have a say. A research study is exploring the factors that facilitate or inhibit participation in the workforce from the perspective of parents of young children who are or wish to be primary parents. If you:
- have at least one child aged three years or under.
- are currently working and wish to combine work in a way that would enable you to be a primary parent.
- are interested in discussing your views on this topic.

Contact Emma Phillips on 0403 696 506 or email: e.phillips@griffith.edu.au

Your support please

Although C&K does not personally endorse the advertisers who have inserted flyers in Connect, by allowing a limited number of inserts we are able to defray the production costs. We ask you to support those who support us by displaying their insert on your noticeboard, or hand out to parents if quantities allow.

Centre marketing tools

Don't forget to check out C&K's intranet. It has loads of useful materials. There is a variety of media releases you can tailor to suit your newsworthy story (ie open day, birthday, new staff member, etc). There is also background for funding applications, letters requesting funding and donations, and letters inviting local dignitaries to your special event ... and much more. Go to Media and Communications under Main Menu.

Nundah gets floored

Congratulations to C&K Nundah Community Kindergarten who received $5400 from the Gambling Community Benefit Fund for new flooring.

H2o the way to go

Trinity Kindergarten has expanded their water play program thanks to a grant from the Sidney Myer Fund. The tank will add another dimension to their outdoor environment.

As part of the centre's philosophy, they strongly believe and advocate a positive attitude towards care of the environment and sustainability. Trinity recycles scraps to a worm farm and compost bins. The children learn about wildlife in the kindergarten's environment and they witness first-hand life cycles of caterpillars and other insects and animals.

Share your photos

We love to publish photos of what's going on at your service. Below are just a few reminders.
- Please send images as high resolution jpegs. Basically, that means setting your camera at its highest settings.
- Do not send images as part of a Word document. If you have a few photos best to either email separately or send on disk, so as not to clog our server.

Any questions, contact Libby Burke on 07 3366 8273 or email: l.burke@candk.asn.au

Home sweet home

Cloncurry Kindergarten has been given an old Queensland Rail cottage to help attract and retain staff at the centre. The kindergarten approached member for Mount Isa Betty Kiernan last year to help find accommodation for their teacher. Betty said the kindergarten committee, which is made up of hardworking volunteer parents, realised that to ensure the long-term sustainability of the kindergarten they needed to offer accommodation assistance in order to attract and retain staff. Cloncurry Kindergarten president Jenny Topp welcomed Queensland Rail's decision to transfer the house to the kindergarten. She thanked former president Jacqueline Krueger for her dedication, commitment and foresight in initiating the enquiry into accommodation for teachers.

Casa Cloncurry ... From left: Joe Bakhsh, Betty Kiernan MB, Christine Ballard - Cloncurry vice president, Zack Ballard, Imogen Back, Connor Brodie, Jenny Topp - Cloncurry president, Penny Back - Cloncurry treasurer, Stephen Cantwell - QR executive group general manager freight and Rex Penrose - QR driver in charge of Cloncurry.

Connect deadline

30 March 2009

Keep us informed of your service's activities. Send your news to: l.burke@candk.asn.au

14 Edmondstone St, Newmarket QLD 4051 • Phone: 3552 5333
Toll free: 1800 177 092 • Fax: 3356 7976 • Email: info@candk.asn.au

www.candk.asn.au

Printed on recycled paper
Are you interested in participating in a study exploring the interface between work and parenting? This is your chance to have a say. A Queensland research study is exploring the factors that facilitate or inhibit participation in the workforce from the perspective of parents of young children who are or wish to be primary parents.

If you:
- reside in Queensland
- have at least one child aged 3 years or under
- are, or wish to be, a primary parent for that child or children and
- are interested in discussing your views on this topic

please contact Emma Phillips on:
0403 606 606 or
e.phillips@griffith.edu.au
If you wish to obtain further information.
Work and parenting study

Are you interested in participating in a study exploring the interface between work and parenting?

This is your chance to have a say. A research study is exploring the factors that facilitate or inhibit participation in the workforce from the perspective of parents of young children who are or wish to be primary parents. If you:

- have at least one child aged three years or under
- are currently working and wish to combine work in a way that would enable you to be a primary parent
- are interested in discussing your views on this topic

Contact Emma Phillips on 0403 696 506 or email: e.phillips@griffith.edu.au
Description of Project

Project Title: “Eclipse or collide? Integrating primary parenting and work”

Chief Investigator:
Prof. Richard Johnstone, B Business Science (Hons), LLB (Hons), Ph D
Deputy Dean (Research), Director, Socio-Legal Research Centre
Faculty of Law
Griffith University
Nathan Campus
Tel: (07) 3735 3645
Email: r.johnstone@griffith.edu.au

Student Researcher:
Emma Phillips, BA, LLB (Hons)
PhD Student
Faculty of Law
Griffith University
Nathan Campus
Tel: 0403 696 506
Email: emma.phillips@griffith.edu.au

This study aims to explore the factors that facilitate or inhibit participation in the labour market in Australia from the perspectives of parents who are, or wish to be, the primary carers of their young children. The research forms part of the student researcher’s academic program.

The research team are keen to speak to individuals who have at least one child at least three years or under and are or wish to be the primary carer
of that young child/ren, so that we can deepen our understanding of the factors that either facilitate or obstruct participation in the workforce by such parents. It is anticipated that there will be many different factors that individuals will see as important and all insights are valued and appreciated. It is hoped that the research findings will be used to better inform legislative and policy development.

As a participant in the research you will be asked to engage in an interview on the topic of your experience as a parent in terms of participation in the labour market. This simply means that the interviewer will talk informally with you about your experience. There will not be a long list of questions to answer or a lengthy questionnaire to fill in. Rather, the interviewer will be interested to hear of your experience in your own words and in your own way. Should you feel the need for direction, the interviewer will be able to help the discussion with relevant questions. The interview will be conducted at a place and time of your choice, and is likely to last from half to one hour. The interview will be conducted by a researcher who is independent of any workplace, childcare or playgroup association with which you have, or presently are, involved.

Participation is voluntary and can be terminated at any point. Statements made during the interview will be audio-taped and transcribed. Such statements can later be withdrawn. The audio-recordings of the interviews will be erased in full following analysis. Choosing not to take part in this research will incur no loss of benefit in any way to either your or your family. Total confidentiality will be respected for participants and it will not be possible to link individuals with the information they provide. If participants' comments are used in publications, conference presentations or media releases, no identifying information will be provided to link these statements with a particular interviewee. Although some of the participants' statements may be used in publications from this research such statements will be used in such a way that the participant cannot be identified. The data collected from the participants will be stored under secure conditions at a research office under the auspices of Griffith University and will be erased and destroyed following analysis. The results from the study will be available from the student researcher by December 2011, whose details are provided in full at the beginning of this sheet.

The conduct of this research involves the collection, access and/or use of your identified personal information. The information collected is confidential and will not be disclosed to third parties without your
consent, except to meet government, legal or other regulatory authority requirements. A de-identified copy of this data may be used for other research purposes. However, your anonymity will at all times be safeguarded. For further information consult the University’s Privacy Plan at www.griffith.edu.au/ua/aa/vc/pp or telephone 07 3735 5585.

We would like to invite you to participate in this research. The attached consent form outlines your rights in the research process. The student researcher (see contact details above) will be most happy to answer any further queries you have about this research.

This study has been approved by the Griffith University Human Research Ethics Committee and participants may contact Griffith University on 07 3735 5585, should they have any complaints about the conduct of the research or wish to raise any concerns. It is anticipated that there will be no risk associated with this research for you – indeed, evidence indicates you may derive value from this experience by talking about issues of concern to you. However, should you experience any distress you are at liberty to terminate the interview at any stage and follow-up counselling can be arranged at no cost to you if you wish.

Thank you for taking the time to read this project description.
**Consent Form**

**Project Title:** “Eclipse or collide? Integrating primary parenting and work”

**Chief Investigator:**
Prof. Richard Johnstone, B Business Science (Hons), LLB (Hons), Ph D
Deputy Dean (Research), Director, Socio-Legal Research Centre
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Griffith University
Nathan Campus
Tel: (07) 3735 3645
Email: r.johnstone@griffith.edu.au

**Student Researcher:**
Emma Phillips, BA, LLB (Hons)
PhD Student
Faculty of Law
Griffith University
Nathan Campus
Tel: 0403 696 506
Email: emma.phillips@griffith.edu.au

**Contact for Ethical Concern:** Please contact the Manager, Research Ethics, Office for Research, Bray Centre, Nathan Campus, Griffith University (Tel: 07 3735 5585; email: research-ethics@griffith.edu.au) should there be any concerns about the nature and/or conduct of this research project. All complaints will be treated in confidence, investigated fully and you will be informed of the outcome.
As outlined in the attached project description, this study aims to explore the factors that facilitate or inhibit participation in the labour market in Australia from the perspectives of parents who are, or wish to be, the primary carers of their young children. The purpose of this form is to allow you to consent to participating in this research which includes one interview.

As a participant in the research you will be asked to engage in an interview on the topic of your experience either as a primary parent of a young child/ren or as a parent of a young child/ren who wishes to be a primary parent in terms of your participation in the labour market in Australia. This simply means that the interviewer will talk informally with you about your experience.

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If, for any reason, you wish to discuss this research further, then the student researcher (as listed above) for this project will be happy to talk to you.

An expected outcome of the research is the identification of the factors that facilitate or inhibit primary parents with young children from effectively participating in the workforce. It is anticipated that the findings from the research may provide a basis for recommendations for reform. By exploring the experiences of different primary parents with respect to the interface between parenting and work, it is anticipated that key strategies may be identified that can be implemented to remove barriers obstructing primary parents from effectively participating in the workforce. It is considered that the removal of such obstacles to participation is of benefit to primary parents, society and the economy. Your participation will be greatly valued.

By signing below, I confirm that I have read and understood the information package and in particular that:

➢ I understand that my involvement in this research will include participation in an interview on the topic of my experience either as a primary parent of a young child/ren or as a parent of a young child/ren who wishes to be a primary parent in terms of my participation in the labour market in Australia.
➢ I have had any questions answered to my satisfaction;
➢ I understand the risks involved;
➢ I understand that there will be no direct benefit to me from my participation in this research;
➢ I understand that my participation in this research is voluntary;
➢ I understand that if I have any additional questions I can contact the research team;
➢ I understand that I am free to withdraw at any time, without comment or penalty;
➢ I understand that I can contact the Manager, Research Ethics, at Griffith University Human Research Ethics Committee on 07 3735
5585 (or research-ethics@griffith.edu.au) if I have any concerns about the ethical conduct of the project; and

I agree to participate in the project.

Signed (Participant) ........................................
Name ............................................................
Dated .........................................................

Witnessed ......................................................
Dated .........................................................

Signed (Chief Investigator) ..............................
Dated .........................................................

Signed (Student Researcher) ............................
Dated .........................................................

Tear Off ........................................................

I would like to receive a plain English version of the outcomes of this project.

Please send to:

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that young child/ren, so that we can deepen our understanding of the factors that either facilitate or obstruct participation in the workforce by such parents. It is anticipated that there will be many different factors that individuals will see as important and all insights are valued and appreciated. It is hoped that the research findings will be used to better inform legislative and policy development.

As a participant in the research you will be asked to engage in a focus group discussion on the topic of your experience as a parent in terms of participation in the labour market. A focus group involves a small group of participants (usually 8 to 10) who meet together to discuss a particular topic. The discussion is usually structured, with a list of themes presented by the interviewer and the participants invited to comment in respect of these themes. Your opinion will be welcome on a number of issues posited by previous parents interviewed in the research and any additional comments will be welcome. The focus group discussion will be led by a researcher who is independent of any workplace, childcare or playgroup association with which you have, or presently are, involved. The discussion will take place at a community meeting place in Toowong, Brisbane and will last for one hour. The venue is child-friendly and there are toys and playground facilities available for your children. Morning tea will be provided for you and your children. Further details, including directions to access the venue, will be provided should you agree to participate. Alternatively, you may elect to participate in the discussion by telephone. If this is your preference, teleconference facilities will be arranged for you and you will be able to participate from your home telephone.

Participation is voluntary and can be terminated at any point. Statements made during the focus group discussion will be audio-taped and transcribed. Such statements can later be withdrawn. The audio-recordings of the discussion will be erased in full following analysis. Choosing not to take part in this research will incur no loss of benefit in any way to either your or your family. Total confidentiality will be respected for participants and it will not be possible to link individuals with the information they provide. If participants' comments are used in publications, conference presentations or media releases, no identifying information will be provided to link these statements with a particular participant. Although some of the participants' statements may be used in publications from this research such statements will be used in such a way that the participant cannot be identified. The data collected from the participants will be stored under secure conditions at a research office under the auspices of Griffith University and will be erased and destroyed
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Signed (Participant)..................................................
Name.................................................................
Dated..............................................................

Witnessed.........................................................
Dated..............................................................

Signed (Chief Investigator)...............................
Dated..............................................................

Signed (Student Researcher).........................
Dated..............................................................

I would like to receive a plain English version of the outcomes of this project.

Please send to:

Name:.............................................................
Address:................................................................
........................................................................ Post Code:..........................

Tear Off..............................................
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