



## FAMILY BREAKDOWN

### The RIGHTS Of GRANDCHILDREN And GRANDPARENTS

As marriages and relationships become increasingly prone to breakdown, grandparents are concerned for the welfare of grandchildren. With a history of family migration that meant leaving elders behind, the Australian Government, child protection agencies and family law have not recognised the importance of grandparents in the care and development of children.

Prior to the 1996 amendments to the Family Law Act, Grandparent Support Groups (GSGs) throughout Australia were led to believe that "grandparent's rights" would be written into the new legislation, as hitherto, grandparents were regarded as "strangers" before the Court. In fact, the new legislation does not contain such rights, but allows grandparents to bring actions concerning contact and residence on behalf of the best interest of their grandchildren.

In November 1996, the Council on the Ageing (COTA) sponsored a conference in Sydney, in conjunction with the Family Court, to inform grandparents of changes to the legislation. The Family Court was represented by Justice Chisholm and Meryl Turner from the counselling service. The general consensus of opinion by Family Court representatives was that it was in the best interests of children to maintain contact with their grandparents, who were seen as a stabilising force in the lives of children, particularly during the emotional turmoil of divorce.

However, questions from the floor and discussion among participants gave rise to a rather different understanding of the complexity of the role of grandparents. As GSGs and their members indicated, many grandparents are actively co-parenting their grandchildren and have a significant role in their day-to-day care. Sometimes grandparents provide full-time parenting for lengthy periods before a parent returns to remove the child. Children may also be cycled between parents and grandparents in some circumstances where parents have a series of de facto relationships or have a drug dependency. Given that this is often the reality of the "stability" provided by grandparents, many grandparents at the conference were angry at the refusal of State child protection agencies to take their complaints of neglect seriously and redress the lack of standardised procedures across States. The Family Law Court is seen as a last resort - by those who can afford it - since many grandparents have equity in homes and some savings

which preclude their access to Legal Aid. There were also stories of grandparents spending thousands of dollars to maintain contact with their grandchildren, which is not then enforced by the Court if parents chose to flout Court Orders or move. There was also criticism of the way in which "the best interests of the child" is interpreted, as there are cases where the very fact of bringing a case against a parent is seen as evidence of ill-feeling between parent and grandparents, and this tension of itself is considered to be against the "best interests of the child". In cases of abuse and neglect, this can leave a child without support from loving grandparents and in the care of an intolerant parent.

At the end of the Conference, grandparents had developed a realisation that while their adult children might fight a "battle of the sexes" in the Court, they did not have to be divided on the issue of gender. Rather, they identified problems with Government legislation and administration as common ground, and it was resolved that GSGs should be encouraged to lobby more aggressively to bring these issues to the attention of politicians and the general public. Suggestions made at the Conference, such as the development of a Grandparents Reunion Register (similar to the Adoption Register) are presently under investigation in NSW and the ACT, with at least two GSGs putting submissions to the Joint Parliamentary Committee on the Convention of the Rights of the Child. The issue of grandparents actively parenting children has been covered by a segment on ABC's "Life Matters", while "60 minutes" is researching a future program. The importance of this issue receiving national attention is perhaps best highlighted by the saddest story of the day, which involved a child who was finally allowed by the Court to contact her grandmother, and arrived the day after the funeral. Grandparents who have been parenting a child for years, only to have the child removed from a safe environment, know only too well that grandchildren are our most precious resource.

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