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## Divorce is hell, but so is a bad marriage

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Radical change in the Australian family form has fundamentally changed our society. Couples are postponing marriage, or replacing it with cohabitation. Divorce rates are rising and fertility rates falling. While this transition presents a challenge to policymakers, we must remember that ill-considered legislation can do more harm than good.

With the parliamentary committee on family and community affairs due to report its findings of the child custody inquiry to Parliament before December 31, Australian family law is again re-entering the political debate.

In a book launched last Friday, Barry Maley, a senior fellow at the influential Centre for Independent Studies, has fired the first salvo, arguing for a reversal of unilateral divorce laws in Australia.

Since the introduction of the 1975 Family Law Act, Australians have been free to file for divorce irrespective of the consent of their spouse, and divorce will be granted so long as there is a one-year separation. Maley argues that these laws are a factor in high divorce rates, and have transformed marriage into little more than an uncertain bond between partners. To reverse this, he proposes a divorce regime where the only way out of marriage should be through the consent of your partner, or proof of marital fault, such as abuse or infidelity.

Unfortunately for Australia's 4.1 million married couples and 4.8 million children, this debate too often rests more on colourful political rhetoric than careful analysis. Until now. With Dr Betsey Stevenson we recently completed a multi-year research project into the effects of unilateral divorce laws. The results are stark, showing far-reaching consequences that transcend the typical political debate.

We study the US because it effectively provides a large-scale social experiment. There divorce is an issue of state jurisdiction, and so the introduction of no-fault divorce varies from state to state. Some states have yet to adopt any progressive reform, and so were ideal as a point of comparison.

The findings reveal that under no-fault laws a wife can threaten to leave an abusive husband, and this becomes a credible threat. Under the old regime, this was not so. Our theory is that the fear of divorce creates a strong incentive for abusive partners to behave.

More generally, easy access to divorce redistributes marital power from the party interested in preserving the marriage to the partner who wants out. In most instances, this resulted in an increase in marital power for women, and a decrease in power for men.

Our analysis of US data revealed the legislative change had caused female suicide to decline by about a fifth, domestic violence to decline by about a third, and intimate femicide - the husband's murder of his wife - to decline by about a tenth.

Australian data seems largely consistent with these findings. In the decade after the introduction of the 1975 Family Law Act, female suicide declined by roughly 20 per cent, or about 100 victims a year, when compared with the preceding decade.

Although there was no Australian data on domestic violence and intimate femicide for the 1970s, our findings from the US suggest that Australia has seen about 50,000 fewer incidences of domestic violence a year as a direct result of the act.

Interestingly, while the rise in divorce rates did closely coincide with legislative change, our analysis suggests that liberalised divorce laws were not responsible for any long-term change in divorce patterns.

State-to-state comparisons in the US show that aside from a spike, legislative change had little to no effect on divorce rates.

Indeed, the long-run rise in divorce was the result of broad social, cultural and religious change throughout the 1960s and '70s.

Like the state-to-state comparison in the US, we ran the same tests on Australia and New Zealand (where unilateral divorce was introduced only in 1981). In both countries there was a spike in the divorce rate in the years shortly after the reforms.

However, this probably reflected the dissolution of a stored up pool of failed marriages in which one spouse was trapped by fear, impoverishment or an inability to prove fault. In the longer term, we found the legislation was responsible for only a very minor change in Australia's divorce rate.

While society often bemoans the end of traditional family structures, reform needs to focus on improving bad marriages rather than prohibiting healthy divorces. A return to a pre-1975 divorce regime would mean little more than a return to abuse and violence in the household.

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*This story was found at: <http://www.smh.com.au/articles/2003/12/09/1070732212996.html>*